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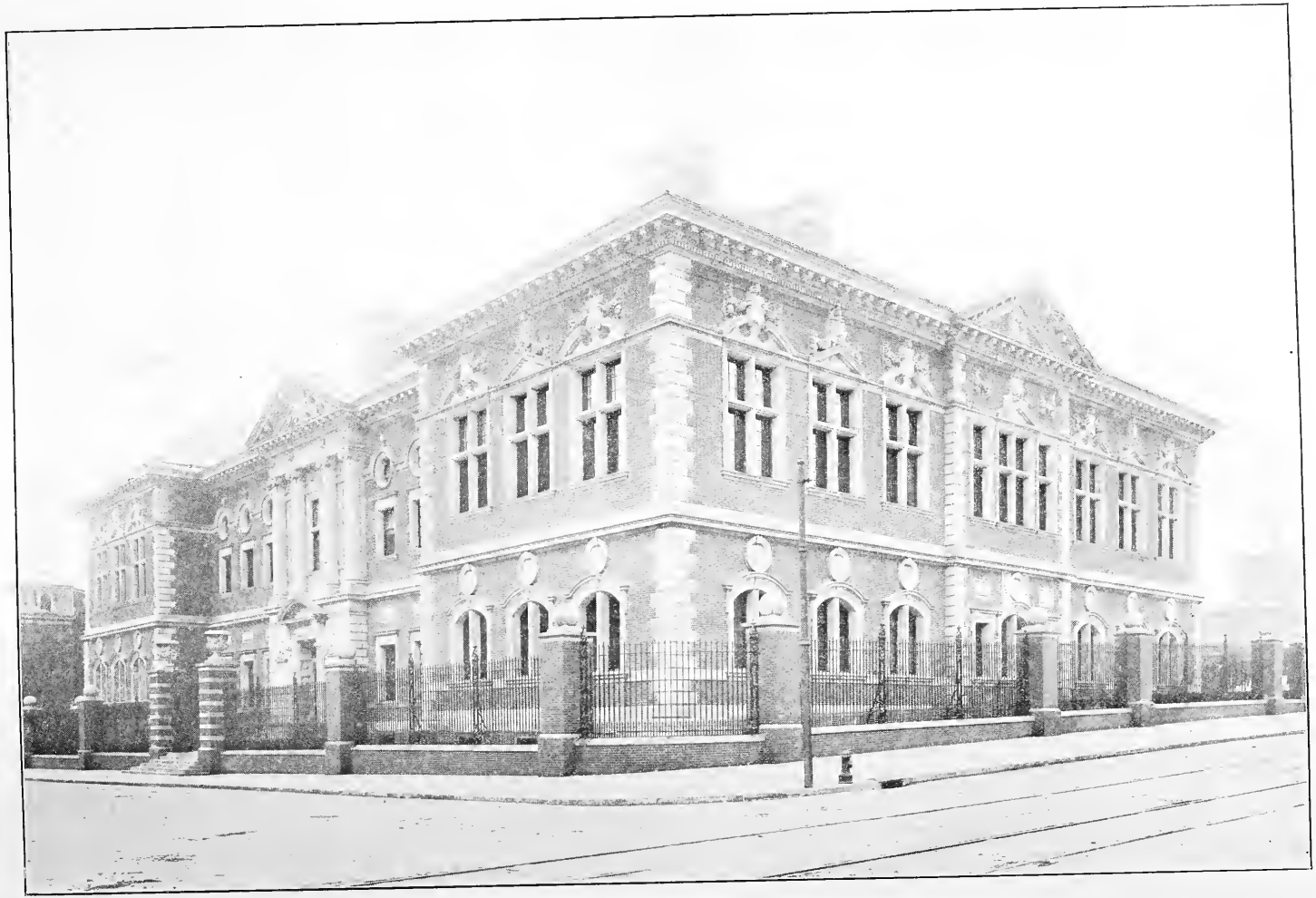


LAW SCHOOL BUILDING.

UNIVERSITY OF PENNSYLVANIA

THE

PROCEEDINGS AT THE DEDICATION OF THE NEW BUILDING OF THE DEPARTMENT OF LAW

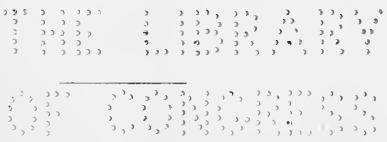
February 21st and 22nd

1900

COMPILED BY

GEORGE ERASMUS NITZSCHE

At the Request of the Faculty of the Department of Law



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The Provost and Trustees
of the
University of Pennsylvania
desire the honour of your presence
at the opening of the New Building
of the
Department of Law,
on Wednesday the twenty first and Thursday the twenty second
of February, Nineteen hundred.

The favour of an early answer is requested.
Address the Secretary of the University,
400 Chestnut Street, Philadelphia.

The favour of an early [illegible]
Address the Secretary of the [illegible]
400 Chestnut Street, Philad[illegible]

UNIVERSITY OF PENNSYLVANIA

OPENING OF THE NEW BUILDING

OF THE

DEPRATMENT OF LAW

THIRTY-FOURTH AND CHESTNUT STREETS

FEBRUARY TWENTY-FIRST AND TWENTY-SECOND

1900

GUESTS ARE REQUESTED TO MENTION UPON WHICH OCCASIONS THEY EXPECT TO BE PRESENT. ON FEBRUARY 9TH, CARDS OF ADMISSION WILL BE MAILED.

Wednesday, February Twenty-first.

1.30. Reception and Lunch in the New Building, by the Society of the Alumni of the Department of Law.

2 30. Inspection of the Building.

3.30. Opening Exercises, and Dedication of McKean Sharswood, and McMurtrie Halls.

Addresses by

Provost Harrison.

Samuel Dickson, Esq., Chairman of the Law Committee.

William Draper Lewis, Ph. D., Dean of the Law Faculty.

James Barr Ames, A. M., Dean of the Law School of Harvard University.

8.30. Meeting at the American Academy of Music

Addresses by

The Hon. John Marshall Harlan, Senior Associate Justice of the Supreme Court of the United States.

The Hon. Sir Charles Arthur Roe, LL. D., representing the University of Oxford.

Mr. G. B. Finch, A. M., representing the University of Cambridge.

Thursday, February Twenty-second.

Washington's Birthday—University Day.

11.00. At the American Academy of Music.

Address by

His Excellency Wu Ting-fang, the Chinese Minister.

Conferring of Honorary Degrees.

4.30. Dedication of Price Hall, in the New Building.

Address by

Hampton L. Carson, LL. D., Professor of Law.

At a Meeting of the Trustees of the University of Pennsylvania April 3d 1792.

The Board proceeded to the election of the Professor of Law, and the Ballots being counted James Wilson L. L. D. was Unanimously chosen.

Whereupon, Resolved, That The Honorable James Wilson L. L. D. be the Professor of Law in the University of Pennsylvania.

Extract from the Minutes

Edward Tilghman Secy

THE

PROCEEDINGS

AT THE

Dedication of the New Building of the Department of Law of the University of Pennsylvania.

Philadelphia,

FEBRUARY 21st AND 22d,

1901.

First Day.

On Wednesday, February twenty-first, at half-past one o'clock, a reception was tendered the guests of the University, in the new Law Building, by the Society of the Alumni of the Department of Law. The reception was held in Sharswood Hall, the Board of Managers of the Society, the Provost of the University, the Committee of the Trustees on Law and Legal Relations and the Faculty of the Department of Law receiving the guests on behalf of the Society, assisted by a reception committee composed of the following ladies:

Mrs. John C. Bell.
Mrs. George T. Bispham.
Mrs. Francis H. Bohlen.
Mrs. Hampton L. Carson.
Mrs. Samuel Dickson.
Mrs. Joseph S. Harris.
Mrs. Charles C. Harrison.
Mrs. Harry S. Hopper.
Mrs. William Draper Lewis.
Mrs. William E. Mikell.
Mrs. John W. Patton.
Mrs. Samuel W. Pennypacker
Mrs. George W. Pepper.
Mrs. Eli K. Price.
Mrs. Frank P. Prichard.
Mrs. William Sellers.
Mrs. Edgar F. Smith.
Mrs. William M. Stewart, Jr.
Mrs. O. W. Whitaker.

A luncheon was served in McMurtrie Hall, and the building was then thrown open for inspection until three o'clock.

At half-past three o'clock the guests and officers of the University and the students of the Law Department having assembled in the class rooms on the first floor, the representatives of Universities, Colleges and Law Schools, and the Faculty and students of the Law Department of the University of Pennsylvania, being all in academic dress, moved in procession to McKean Hall, where the afternoon's exercises were held. The order of the procession was as follows :—

Vice-Provost and Trustees of the University.

Special Guests of the University.

University and College Presidents.

Members of the Federal Judiciary.

Members of the Supreme Court of Pennsylvania and the Courts of last resort of other States.

Members of the Superior Court of Pennsylvania.

Members of the Common Pleas and Orphans' Courts of Pennsylvania, and other Courts of Record of other States.

Representatives of Law Schools

Representatives of Bar Associations and members of the Bar being special guests.

The Faculty and other members of the teaching force of the Department of Law.

Students of the Department of Law by classes.

Members of the Reception Committee.

All other Guests.

Charles Custis Harrison, LL. D., Provost of the University presiding, introduced the RT. REV. OZI W. WHITAKER, D.D., LL. D., Bishop of Pennsylvania, who opened the exercises with the following prayer:

O God, the Father of Lights, the source of all knowledge and power; the Ruler of the universe, the Judge of all the earth; by whom nations exist and sovereigns rule and judges exercise authority; we adore Thee and magnify Thy glorious Name for all the blessings we enjoy.

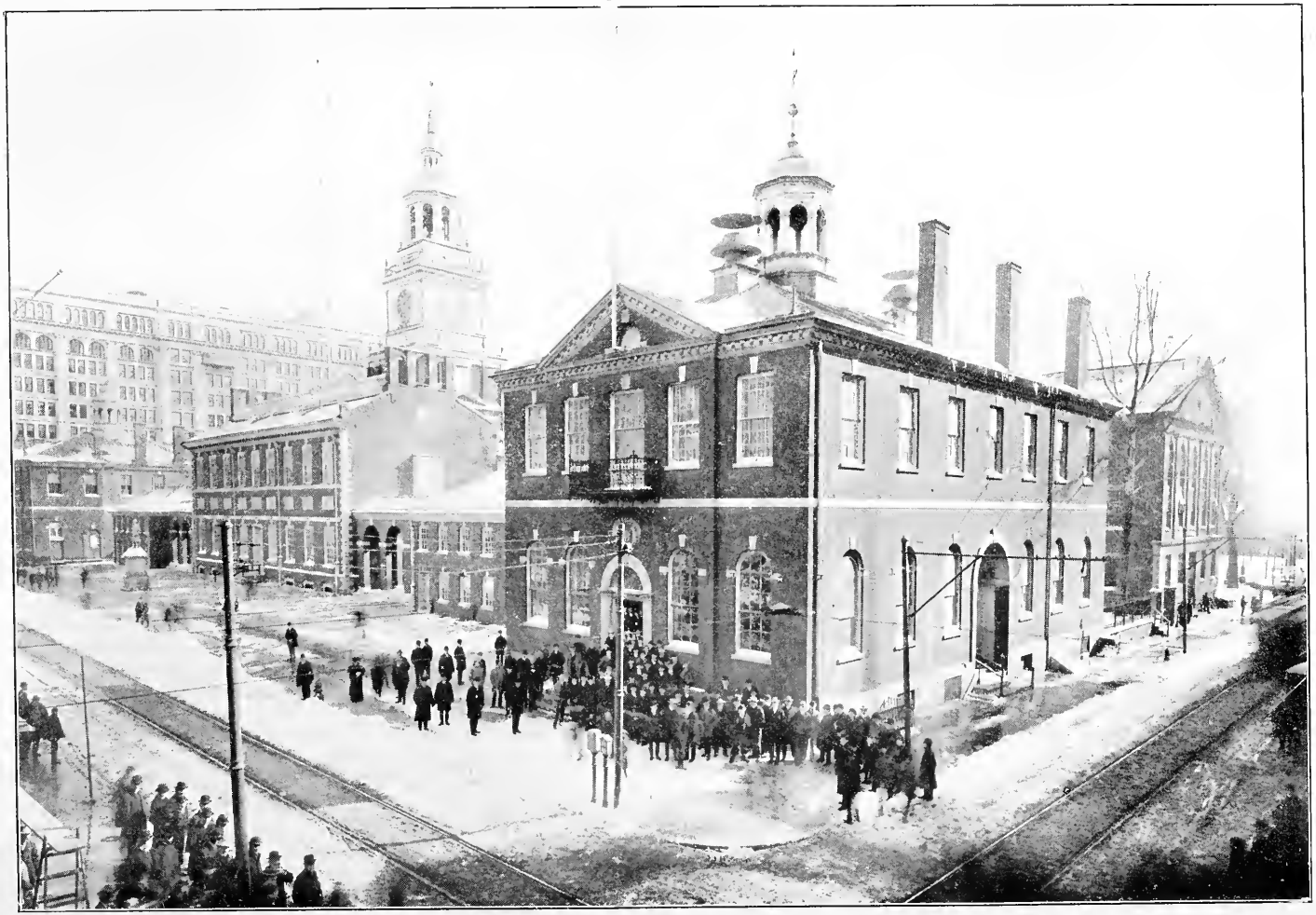
We thank Thee for civil and religious liberty, and for all the favorable conditions of our lives, and for the completion of this work which has brought us together this day. Grant, O Lord, that we may show forth our thankfulness for all Thy benefits by making a right use of them for Thy glory and for the welfare of mankind. We implore Thy blessings upon all in legislative, executive and judicial authority, that they may have grace, wisdom and understanding so to discharge their duties as most effectually to promote the interests of true religion and virtue, and the peace, good order and honor of the state and nation. We ask Thy blessing upon the University of Pennsylvania, and especially now upon that department of its instruction and work, for whose use this temple of justice has been erected. Wilt Thou enlighten with Thy perfect light the minds of all those Thy servants who shall be appointed to teach in this School of Law. May they have wisdom for the wide range of duties devolving upon them; may they realize that all human laws should be but the application of Divine Law to the varying conditions and relations of men, and may all their teaching be in the fear of God, and in the love of righteousness and truth.

And wilt Thou grant, O Lord, that all who shall here receive instruction in the principles and methods of their chosen profession may be animated by the same spirit. By their love of justice and their reverence for law, may

their influence be to purify and elevate the morals of the people, and may they show forth what they shall have learned here by steadfastness of principle and the maintenance of every righteous cause.

To these high and holy ends, O God, we dedicate this building, in Thy name; beseeching Thee to remember for good all those by whose generosity it has been erected; all who shall give or receive instruction within its walls; and all who are in any way connected with its work; and wilt Thou grant, O Lord, to these, and to all this people, an abiding sense of the great truth that the only security for the continuance of the blessings which all enjoy, consists in our recognition of Thy sovereign and gracious Providence, and in humbly following the teachings and example of Thy Son Jesus Christ, our Lord, in whose words we unite in praying unto Thee: Our Father, who art in Heaven, hallowed be Thy name. Thy Kingdom come. Thy will be done on earth as it is in Heaven. Give us this day our daily bread. And forgive us our trespasses, as we forgive those who trespass against us. And lead us not into temptation, but deliver us from evil. For Thine is the kingdom, and the power, and the glory, forever and ever. Amen.

The grace of our Lord Jesus Christ, and the love of God, and the fellowship of the Holy Ghost, be with us all evermore. Amen.



QUARTERS OF DEPARTMENT OF LAW—1895-1900.

From photograph taken on last day the Department occupied quarters at Sixth and Chestnut Streets. Building at corner is "Congress Hall." Building to right "New Court House." Buildings to left, "State House Row," "Independence Hall," "City Hall" and "Drexel Building."

PROVOST HARRISON delivered the address of welcome, speaking as follows:

Ladies and Gentlemen: I need not confess with how much pleasure the University greets, this afternoon, its guests from far and near. The occasion is certainly one which may well touch us all with a flush of modest pride; —for the day marks not only the dedication of a noble building to a true subject of University study; but it also marks a new era in the history of the Law School. Hitherto, the Department of Law has been without a home and fireside of its own, and for the greater part of its life it has been separate and apart from the University—a School of Law, but hardly a University School of Law. It has missed the contact with the daily life of the University, and the University has missed the influence of the School. The mother has had an adult child in separate and distant lodgings. Hereafter and henceforth, we are all to be together.

The Trustees desire me at this time to express their sincere thanks for the public interest and the private munificence which have made their purposes possible to the extent we see to-day. During all the time in which our plans were forming, the City of Philadelphia has given us patient and free use of the court house and court rooms not far from that "Old Building" where James Wilson delivered his first law lecture before the University, 110 years ago—and that act of public thoughtfulness is to-day well retaliated by this result of many private gifts. Through these alone and in entire dependence thereon has this building been erected. It is a danger, I believe, in such University undertakings as this, to think too much of the present and not enough of the future; but I feel that in this latest work we have emptied our quiver of its arrows. The patience and care and affection with which our plans and purposes have been safe-guarded by the Faculty, the Architects, and the Law Committee of the Trustees may have been

equalled at other times and in other places, but not in my experience. The interest of all has never failed; but I am sure that no one will withhold approval when in this respect I publicly thank the hard worked Dean of the Law Faculty and Messrs. Cope and Stewardson, the architects. One can scarce realize what it means when I say that a full year was given to the continuous study of the plans before their final adoption. It is hard to know whom not to thank. Builder and workman, master and servant alike, deserve, and to-day receive, their proper wage of approval. Like the building of that other temple, under an older dispensation of law, there has been no voice of strife or contention or dispute here. Nor any accident.

It is quite natural that we should wish, peculiarly, to thank, at this time, the givers of the many gifts for the erection of the building. It has been my fortune personally to know them all. They will prefer not to be mentioned by name at this time; but they will quite understand how the University feels towards and thinks of them. We thank all; we are grateful for the memory of him—my classmate—who first stirred us to the undertaking; and in equal measure to those young lawyers, who, in more instances than one, have given a large part of a year's fees. In the memorials, too, which have been here founded, we have the beginning of an Abbey of Inscriptions, telling of lives of "judicial independence, of professional honor, and of public respect," whose influence must take its hold upon master and scholar alike. Many, both men and women, will know what I mean when I extend to them, here and now, my personal thanks.

I am sure that the Trustees will desire me to say that while this building has been presently completed, we do not wish to take all the credit and honor of it. It means simply that the time had come for us to do this work. Other men had been for a century building a foundation, and we have erected the building upon that

foundation, well cemented and prepared. It is our greater pride—greater than the realized purpose—that no history of the Bar of Philadelphia—or, as Horace Binney definitively expressed it—"the leaders of the Bar of Philadelphia," can be written without writing in part the history of the University of Pennsylvania.

Mr. Chairman, others may speak of the development of the law as a science, of the progression of the law, depending upon the progress of the lawyer. My part and duty shall have been ended, I trust, when I offer for your approving acceptance this new building of the Department of Law of the University. Its purpose and the purposes of the University are clear. We seek to offer here the largest facilities in science and letters, and the highest influences upon the conduct of life, to that class—not caste—which may be willing to devote itself to those ideals of education which alone become a University. Nations are slow to recognize the social value of such education, but quick to know that no uneducated nation can survive as against an educated one. No whole nation can be educated to the ideals of a University, but influence flows gently downwards; and the function of the American Universities is to prepare a gradually increasing number, whose guiding power and influence in their respective spheres may gladly be accepted by the nation at large. The University Chemist and Physicist are recognized in their authority when they apply the original work of the Laboratory to the Arts of the people. So, with increasing influence, are the Historian, the Economist and the Sociologist heard.

May the students of Law, in this new building, so master the principles of their science, and be so imbued with high ideals of their calling, that Law and Equity, expounded in their practice and illustrated in their lives, may more and more decide the cause of the people, and in this democracy of ours be the guardians of an ordered liberty.

SAMUEL DICKSON, ESQ., Chairman of the Committee of the Board of Trustees on Law and Legal Relations, then presented the building on behalf of the Trustees to the Faculty of the Department of Law. Mr. Dickson spoke as follows:

"*Mr. Provost:* The first duty of the representative of the Trustees upon this occasion, is to acknowledge that it is to your courage and exertions we owe it that this building has been erected on this site, for no one else thought it possible to obtain a sum sufficient for the necessary expenditures; and it is equally imperative to say to you, Mr. Dean, that to the patient and intelligent supervision by yourself and colleagues, of every detail of arrangement, must be ascribed, in large measure, the perfect adaptation of the building, in all its parts, to the uses to which it is to be devoted.

Upon its formal dedication to the teaching of the law, every lawyer present will naturally recall the first lecture delivered in 1790 by James Wilson, one of the Associate Justices of the Supreme Court of the United States. Upon that occasion were present President Washington, members of his cabinet and of Congress with Mrs. Washington and other ladies. The event was regarded as of the first importance, and it has continued to be so by reason of the course of lectures delivered during that and the following winter, for they constitute a distinct contribution to the literature of the law. His full course would have occupied three terms, but before its completion, he was appointed, in 1791, by the General Assembly of Pennsylvania, to revise and digest the laws of the Commonwealth, to ascertain and determine how far any acts of Parliament extended to it, and to prepare such bills as the new condition of things called for. This task involved great labor and diverted him from his duties as a professor, and he did not live to complete the work which would have anticipated the later collection of the British statutes by the Judges of the Supreme Court, and of the

Commissioners subsequently appointed under the act of 1830. His lectures were also left in an unfinished condition, but those which were completed confirm the estimate placed upon his ability by the later writers and notably by Mr. Bryce, who speaks of him as one of the deepest thinkers and most exact reasoners among the members of the convention of 1787.

In his account of the prominent lawyers at the time of the Revolution, William Rawle, who knew him at the bar, in the splendor of his talents, and in the fulness of his practice, thus spoke of him: 'Wilson soon became conspicuous. The views which he took were luminous and comprehensive. His knowledge and information always appeared adequate to the highest subject, and justly administered to the particular aspect in which it was presented. His person and manner were dignified, his voice powerful, though not melodious, his cadence judiciously, though somewhat artificially, regulated. * * * But his manner was rather imposing than persuasive; his habitual effort seemed to be to subdue without conciliating, and the impression left was more like that of submission to a stern than a humane conqueror. It must, however, be confessed, that Mr. Wilson on the bench was not equal to Mr. Wilson at the Bar, nor did his law lectures entirely meet the expectations that had been formed.'

Quite recently his name has been made familiar to the lay public by the publication of the Memoirs of Colonel Hugh Wynne, who knew him both as a tutor and as counsel, and who seems to have been an apt pupil and intelligent client, as he learned to write very good English, and to treat of legal matters in a way satisfactory even to lawyers.

It does not appear that any successor to Judge Wilson was appointed by the Trustees at the time of his retirement, and in the conditions of professional and social life of that day and of long afterward, the system by which the student entered the office of a practising lawyer, and pursued his studies under his supervision and assisted in

the clerical work of the office, was in many cases most efficient and satisfactory. Judge Wilson himself had read law with John Dickinson, who had been a fellow student of Thurlow and Kenyon in the Middle Temple, and in turn, at the request of Washington, he received the President's nephew Bushrod, afterwards Associate Justice of the Supreme Court, as his student. Indeed, all the great lawyers of the city, who came to the bar after the Revolution, qualified themselves by study and preparation in the office of a preceptor. It was by this method, that the larger part of the Philadelphia lawyers, whose names are engaved upon the walls of this building, became the leaders of the bar.

A sufficient explanation of the non-continuance of the Law School from the retirement of Judge Wilson, was that it was not yet needed, nor would it have attained a considerable number of students when reopened in 1850, had it not been for the fact that George Sharswood, then the President Judge of the District Court of the City and County of Philadelphia, and afterwards Chief Justice of the Supreme Court of Pennsylvania, was the first professor of the reorganized school. His relations to the members of the Bar of this city were altogether peculiar to himself, and it may be doubted if any judge ever sat upon the bench, who was at once so revered and so beloved. It was largely to his personal influence, therefore, that the success of the school then and subsequently was due; but changes of hours and of locality began to interfere with office teaching, and those changes have been followed by others still more effective, until to-day, the removal of the Law School of the University to this side of the Schuylkill, may be accepted as the final proof of an accomplished change in this city in the method of preparation for the practice of the law.

To recapitulate the successive and accumulating changes in social and professional life, which has brought this about, is quite unnecessary; but the fact is, that

whereas the Law School has hitherto been, in this city, a supplement to office study, it will hereafter become, in most cases, a substitute. There has been conflict of opinion as to methods of teaching, and as to how far the Law School can, in itself, enable the student to make himself a lawyer, but no one has ever contended that the law was not a science, of which the principles could best be mastered by systematic study, under the direction of competent teachers. It is studied, however, by the intending practitioner, not merely nor chiefly for his own information, but as what the Germans call a 'bread-study,' for the purpose of making practical use of his learning in dealing with the complicated facts of life, in advising clients in the office, or in trying and arguing cases in court. Both aspects of the question, therefore, should be kept in mind.

It has always been, as it now is, a peculiar advantage of this school that from the time of Judge Sharswood and his colleagues, down to the present day, its Faculty has included men whose position on the Bench or at the Bar compelled them, day by day, to use and test their knowledge in the court room. It is the inestimable privilege of the classes now in this school, that they have the opportunity to listen to judges of the Federal courts, whose appointment was made to satisfy the demand of the practising lawyers of the District, and of lawyers who merit and possess the unqualified confidence of the profession and of the community. What they say commands respect everywhere else, and it will not fail to do so here. Dr. Arnold used to say, 'It is a good thing to admire,' and the greatest good fortune which can befall a young man is that he should follow his legal studies under such men as he will find here, to whom he can look up with generous enthusiasm as the ideals to whose measure it will be his hope to approach in his future life as one of a profession which they ennoble and adorn.

Whether the new order will accomplish the work of

the old, and train up succeeding generations of as high a standard as those who have gone before, is the important question for all of us. The rank attained by the leaders of the Old Bar, as Mr. Binney designated them, is everywhere recognized, but coming down to a time within the memory of many now present, it may be asserted with great confidence that the entire United States might have been challenged to produce their betters, when Mr. St. George Tucker Campbell, Mr. George M. Wharton, Mr. Theodore Cuyler and Mr. James E. Gowen were in the lead, with Mr. Meredith at their head. To turn out men of their stamp will be an achievement indeed, and no better fortune for the school can be asked for. For this work, Mr. Dean, you and your colleagues have now every help which the University can give you. Nothing will be lacking to the comfort, the convenience and the wants of the student. The Biddle Library, which perpetuates the memory of a leader of the Bar, and of three sons, each in his own line pre-eminent, is as yet inferior to that of Harvard, of which Professor Dicey says that 'it constitutes the most perfect collection of the legal records of the English people to be found in any part of the English-speaking world;' but it is already large, and the sum annually applicable to its increase will soon make it adequate for the needs of the most erudite. Having thus free and immediate access to every authority he needs to consult, the diligent student will assuredly learn the use of books, and master a fair share of their contents.

Of all the influences to surround the student in this new home of the Law School, none should be more potent to kindle his ardor than the memories of the good and great men by which he will be surrounded. This hall, in which we are assembled, bears the name of a lawyer, who completed his studies in the Middle Temple, and who returned to take a most prominent and useful part in the American Revolution. He was a signer of the Declaration of Independence; Vice-President and President of

the Continental Congress; Governor of Delaware; the author of the Constitution of that State; a member of the convention which framed the Constitution of Pennsylvania of 1790; Chief Justice of the Supreme Court of the State for twenty-one years, and its Governor for three terms.

In the first volume of Dallas' Reports, there is this letter from Lord Mansfield:

'TO THE HONOURABLE THOMAS M'KEAN, Chief Justice of Pennsylvania:

'KENWOOD, February 14, 1791.

'SIR:—I am not able to write with my own hand, and therefore must beg leave to use another, to acknowledge the honour you have done me, by your most obliging and elegant letter, and the sending me Dallas' Reports.

'I am not able to read myself, but I have heard them read with much pleasure. They do credit to the court, the bar and the reporter: they shew readiness in practice, liberality in principle, strong reason, and legal learning; the method, too, is clear, and the language plain.

'I undergo the weight of age, and other bodily infimities, but blessed be God! my mind is cheerful, and still open to that sensibility which praise from the praiseworthy never fails to give—*Laus laudari a te.* Accept the thanks of

'Sir, your most obliged
'and obedient humble servant,
'MANSFIELD.'

From this judgment there is no appeal, nor can anything with propriety be added.

When elected governor, he conferred upon the people of this State the inestimable benefaction of the appointment of that great lawyer, William Tilghman, as Chief Justice, and the erection of this structure could not have been undertaken but for the noble liberality of a descendant who bore his name.

Of Wilson and Sharswood, whose names appear upon the main door, I have already spoken. It remains to add that the memory of Eli K. Price, George M. Wharton and Richard C. McMurtrie will be perpetuated by lecture rooms which bear their names, at the request of those whose filial piety or friendship led them to contribute to the erection of this building, in grateful appreciation of the professional labors, which gave them prominence at the Philadelphia Bar. The student will find some evidence of their learning and discrimination in the reports of the many arguments which they made in the Supreme Court, and it is enough to say, upon this occasion, as can be truthfully said of all of them, that by none were they so highly esteemed as by their fellow members of the Bar who knew them as men and lawyers, as well as men can know one another, and better than those engaged in any other pursuit can possibly do.

Mr. Carson will speak of Mr. Price at length tomorrow, and it need now only be said that his invaluable contributions to the statute law of the State, his active interest in the University, in the American Philosophical Society, and other associations devoted to literature, science and charity, secured him distinction as a citizen almost equal to that which his long, useful and honorable career won for him at the Bar.

It is impossible, however, that any lawyer, who ever met Mr. Wharton in consultation, or listened to his arguments, could mention his name without at least alluding to his clearness of statement. By common consent, he had the most perfect power of statement of any man of his day, and no one could present any proposition which he could not re-present in a form more simple and lucid.

This was, of course, the result of the exquisite certainty of his mental vision. It was as if his mind had been a perfectly finished lens, which never produced the slightest distortion or aberration, and presented every object with absolute sharpness of definition. Something

he once said as to his habits of reading is worth recording, as illustrating clearly what may be done by system. It will be remembered that he was, in his day, the leading authority in this Diocese upon Church Law. When returning a copy of Derby's Homer, he said that he had listened to the reading of the entire twenty-four books, and he added that it was his rule to read or listen to another read some standard work for a half hour every evening, and that one who tried it would be astonished at how much could be gone through in that way, and as a further instance, he added that by giving the time every Sunday, between morning and afternoon church, to Church Law, he had, in a few years, gone through all the authorities upon the subject.

Of Mr. McMurtrie, of whom some of us are in the habit of speaking as the last scientific lawyer at our Bar, there should be quoted two or three sentences from the eulogy delivered at his Bar meeting by Judge Craig Biddle, as they bring out clearly his distinguishing characteristic as a lawyer :

'Mr. McMurtie, if ever a man did, certainly loved his profession, and loved it with a sort of romantic attachment. Any man who violated the great principles of the law was, to him, a man who could not be tolerated for an instant. No matter from what source the law came, whether from the highest courts in the land or the humblest individual, if it was bad law, Mr. McMurtrie looked upon it as a forgery, as a counterfeit, as equivalent to an attempt to pass money which was not entitled to be current. His sturdiness in this particular gave a rather mistaken notion of his character, but the only thing that ever stirred him to wrath was the one I have just mentioned.'

'The emulation of examples like theirs makes nations great and keeps them so,' and it will be for the men who are to come out from this school not only to maintain the traditions of the Philadelphia Bar as gentlemen and lawyers, and to do their part in helping to advance the

progress of jurisprudence, and to extend the domain of justice and reason, but also to solve the problem always recurring and never definitely answered, whether the political institutions, which were framed by McKean and Wilson and their colleagues, are to be perpetuated as the enduring heritage of a free and virtuous people.

Of all institutions, the University is the most enduring. The life of this one has been brief compared to that of the historic schools, which have honored us by permitting their representatives to be here to-day; but it was given the power by John and Richard Penn to confer degrees, and since then, four Constitutional Conventions have been assembled to change the organic law of the commonwealth. For centuries to come, each year will see a body of men come forth from these halls to develop into the leaders of thought and action of their time. All that this community has done or can do to insure that they will use their power wisely is worth the doing, for it is not only true, as De Tocqueville said, that the conservative force of the American Bar has been the greatest safeguard of American institutions in the past, but there is equal truth in the aphorism of Lord Bacon—a man, as Coleridge says in quoting the remark, 'assuredly sufficiently acquainted with the extent of secret and personal influence,' that, 'the knowledge of the speculative principles of men in general between the ages of twenty and thirty is the one great source of political prophecy.'

In accepting the building on behalf of the Faculty of the Department of Law, WILLIAM DRAPER LEWIS, PH.D., the Dean of the Faculty, said :

Mr. Provost : A little over three years ago the Faculty of Law expressed to you, and through you to the Trustees, their earnest desire that there should be erected near the other University Buildings a permanent home for the Department. To-day you call upon us to occupy, exclusively for the purposes of the Law School, the most complete educational building in the country. To say that we deeply appreciate this more than generous response to our request is to express but feebly the feeling which stirs us at this moment.

When the University determined to erect a building for our Department, the Provost asked us to submit to him a detailed statement of the requirements of such a building. This request was complied with, and though these 'requirements' necessarily involved a much larger building than any one had up to that time contemplated, we were not asked to modify our plans in the slightest detail. The architects, Messrs. Cope and Stewardson, were directed to prepare plans which should meet every want of the faculty. I need hardly tell you that they have done so. Indeed, if our successors find defects in the general interior arrangement of this building, in the distribution of the reading and lecture rooms, we of the faculty are alone responsible, for neither trouble nor money has been spared by the University in its efforts to give us all that we asked.

On this occasion, as we are about to occupy this building, which has been dedicated by you, Mr. Dickson, to the cause of legal education and to the memory of those who in their time knew and loved the law, it is perhaps proper that I, as representing the faculty, should tell the friends of the University and the representatives of legal learning gathered here something of our educational ideal. If I were asked to state the thought which is uppermost in

the minds of the faculty, shaping not only our acts as a body, but our individual work as teachers, I should reply: The thought that our chief aim is to enable our students to become efficient lawyers. I can therefore best give you a mental picture of our educational ideal if I show you what we mean by an efficient lawyer.

Some there are who tell us that we should try to make our teaching practical, others that we should confine ourselves to fundamental principles. The one regards the law as an art, and likes the word practical; the other regards the law as a science, and is fond of such expressions as 'grounded in the theory of the law.' It may surprise some of you to hear me say that our faculty has never discussed the question whether we should regard the law from the point of view of an art or of a science. We have never discussed this question because we are united in the thought that a system of legal education which pretended to give the principles of law, disassociated from their practical application, would be as useless as a system which confined the student to copying legal papers. All of us admit that law is a science. But it is a living science; one that is applied every day to the affairs of living men; and a science whose principles have been hammered out, not in the closet of the recluse, but in the effort to decide real controversies between man and man. Its rules have sprung from multitudinous instances. They are one of the results of the facts which make up our history. As the law has grown, so is it being developed. Even as I speak, hundreds of courts in this country and in England and her colonies, are consciously or unconsciously modifying the principles of our law by the effort to apply them to new controversies. If our economic and social development should cease, and we should become a static people, and the new cases in our courts were always identical with some other reported case, law would cease to be a science. It would become merely an art, and would be no more interesting than

the science of civil engineering, provided every bridge that was built was the duplication of some existing bridge. Again, if man should stop disputing with his fellow-man, the study of the law would be the study of purely historical phenomena. But in our complex, developing modern life new legal problems are arising every day. The law is not merely the study of phenomena connected with a bygone people. The law is a living science and a present art, and therefore there is no such a thing as a practical as distinguished from a theoretical lawyer. There are only two kinds of lawyers, the efficient and the inefficient. If you can find a man whose only accomplishment is that he can draw a deed, provided you do not wish to accomplish something he has not seen done before, you may find a man who is useful occasionally to do your conveyancing, but you do not find an efficient lawyer who can talk to you by the hour on the advantages of codification, or on the comparative excellencies of the civil and the common law, or on the early courts in Rome; but cannot take the facts of a case between Jones and Smith, and give reasons which would appeal to a court why one or the other is right, then you may have found a man who is full of entertaining information, but again you have not found an efficient lawyer; you have not found the man which it is the desire of our faculty to graduate.

In our minds, the efficient lawyer is not merely the so-called practical man, and on the other hand not merely the so-called theoretical one. He is the man who can do well the work which the lawyer is called upon to do. He is one who can take the jumble of facts which his client calls a clear statement of the case, and see quickly and accurately the legal point or points on which the case will turn, and with this knowledge as a starting point, be able to get the facts before the court, and having done so prepare his brief and argue intelligently the legal questions in his case. We believe that a system of legal

education which trains him for part of this duty and not the other, is radically deficient. Our aim is to give the student a knowledge which will not only enable him to argue a legal point, but which will enable him to bring a suit and prepare and try a case; not primarily because we believe that a knowledge of what is called practice is a necessary addition to a knowledge of the fundamental principles of law in order that a man may become a practicing member of the Bar, but because we also believe that as the law is a science grown up from actual cases, and applied and still growing by application to actual cases, a knowledge of ancient pleading and modern practice is essential in order that the student may understand the fundamental principles of the law.

It may be asked, do all your students expect to practice law? Have you no place for one who wants to write on law or teach some branch of the law or legal history? Certainly we have a place for such a man. But we believe that his training should not, in the main, be different from the training of the man who intends to argue cases in court. The work of the lawyer in the preparation of his case, of the judge called upon to decide it, or of the writer or teacher who must compare it with earlier cases, criticise and explain it, is essentially the same. Each must examine the same books and face the solution of the same problems. To suceeed in their respective spheres, the writer and teacher, no less than the judge or practitioner, must realize that he is dealing with an applied science. To grasp the exact meaning of a legal decision, he must thoroughly understand the mechanical forms, that is, the pleadings under which the case was presented to the court. He also must be familiar with the practical difficulties of proving certain classes of facts. In other words, we do not believe that one can intelligently teach or write on the law which his scholars or readers must apply in a real world, without a knowledge of the conditions under which the principles he discusses

must be applied. And therefore, in saying that our chief desire is to graduate "efficient lawyers," we do not slight the man who comes to us to prepare himself for research work or teaching; but in trying to make him also an efficient lawyer, we take the only course which can make him an efficient student of the law.

While a knowledge of the theory and practice of the law forms the extent of the systematic teaching in our present undergraduate course, I should leave you with a false impression if I were to allow you to go away with the idea that we think there are no other elements in the make-up of an efficient lawyer besides the training of his brain and hand. In law, as in all other departments of human endeavor, the efficient man must possess elements of character as well as intellectual and mechanical endowments. He must have in his character certain moral elements, and at least two other elements which I think we may also include under the designation of moral.

One of these elements of character we may call method or perseverance, according to the form of its manifestation. Whether we call it method or perseverance we cannot overestimate its importance. If a lawyer is not neat he hampers his own progress; if he cannot systematize his work, great success, except in rare instances, is denied to him; unless he is capable of long continued and persistent effort, he may never hope to obtain even a moderately respectable position at the Bar. We cannot teach here directly and in a separate course, neatness, order, perseverance, but by holding this element of character before ourselves as essential to the real efficiency of our graduates, we can, and I believe do, accomplish something in this direction. Not alone with this object, but by no means wholly in disregard of it, we make our course and our examinations such that all our students understand that to obtain a good position in the class, or even to get through our course at all, there must be persistent work every day during the term, and that in each

week the work must be systematized; to each day being given its allotted portion. Three years of such training, while it does not make all of our graduates paragons of neatness, method or persistence, undoubtedly has a distinct tendency to mold into the character this element, which, equally with knowledge and skill, is essential to efficiency.

There is a second element of character, very different from that to which I have just called your attention, but none the less essential. This is the element of mental independence in legal thinking. Mental timidity must not be confounded with the caution which very properly keeps a client out of a contest the issue of which is doubtful.

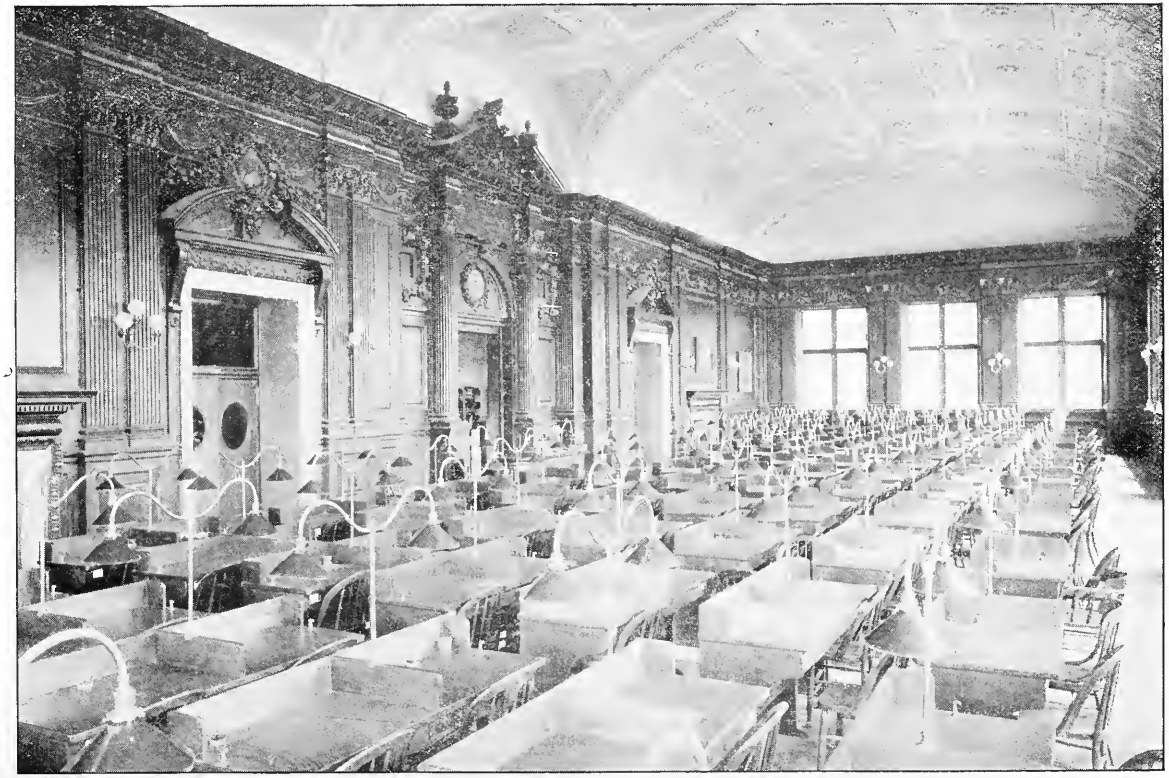
But the lawyer who, for his legal opinions, leans on his digest, his text-book, or his friend, wins only the cases which no one could help winning. Now independence of thought can no more be taught as a separate course than neatness or perseverance. Some have it naturally, others acquire it only by much persistence on the part of the teacher; others, again, no matter what is done for them, never acquire it. But we believe that it is true in law, as in other things, that much can be accomplished by the teacher if he is distinctly conscious of the importance of developing in his students the power to think for themselves. Therefore, in our teaching here, we encourage the student to work out the problems of the law for himself. Where there is a real opportunity for a difference of opinion, we are frankly indifferent as to whether he agrees with us or not, provided he can maintain his own opinion with legal reasons. The old idea that a teacher is a modern Gamalial, at whose feet the student is to sit and drink in information without question, if it ever existed in this Department, has gone, and I trust gone forever. Each of us teaches by that method which appeals to him as best; some lecture, some use in part a text-book, some the so-called case-method; but the mental attitude of each of us towards our classes is, I believe,

the same. It is that of the man who invites on the part of his students discussion, public or private, of the subjects in his course; it is that of the man who is making the distinct effort to give his students the power to think for themselves.

There is one other element in our concept of efficiency, harder to define, perhaps, but more important than all the others. From one point of view, it is the moral make-up of the man; from another it is his mental attitude towards the law. All departments of the University are striving to turn out men who will lead clean and honest lives. I believe the whole tendency of our life at Pennsylvania, as in other universities, is in this direction. Our dormitory system, our athletics, our Houston Club, and our various student organizations, fill that portion of the daily life of our students not given to study with wholesome mental and physical occupation, and are important factors in the upbuilding of their character. Our work as a Faculty of Law, as we conceive it, is to take the foundation of good morals, which is, in an ever increasing degree, laid for us in the character of the great majority of our students by home and university influences, and build thereon something which will make our graduates, not only moral men, but moral lawyers. A man rightly is considered moral when he has certain general positive and negative qualities; if he is temperate in his life, honest in his business dealings, kind to those dependent on him, and considerate of his fellow men. It is our thought that a lawyer should be all this and more. Perhaps this "more" can be summed up in a single sentence: He should love the law and guard her. If he does this, slovenly and inaccurate work, careless legal advice will be impossible to him; the etiquette of the profession he will guard with jealous care; he will keep his own actions on a high plane, and place under the ban of wholesome disdain those who sully the high traditions of the Bar.

How can a law school teach affection and reverence towards the law and the profession thereof? By formal courses in legal ethics? We do not think so. Can nothing therefore be done in this direction by a law faculty? That is the opposite error. There is a subtle thing which all teachers know as the atmosphere of a school. There always is an atmosphere. It may be very good, or very bad, or neither one nor the other. This mental atmosphere, in part, is left by those who have graduated; in part it is the effect of the mental attitude towards his coming work, brought by the incoming student, and in a great part it is the character of the teachers, the efficiency of the school taken as a whole, and the dignity and decorum of its surroundings. I need hardly tell you that, following the example of our predecessors, we of the present faculty have labored and are laboring, with the efficient assistance of large numbers of our students, to make this mental and moral atmosphere of which I have been speaking such that our graduates may not only be skilled in the theory and practice of the law, may not only have in a greater measure than they had on entering, method in work, perseverance in endeavor, and independence in thought, but also that they may have a deep love and enthusiasm for the law, which will abide with them throughout their lives, shielding them from all temptation to do anything which would tend to bring her or them as lawyers into disrepute.

Over the main staircase of this building, so as to be seen by one about to leave it, is to be carved the words of the great Judge whose unselfish labors created this Department of the University. They are the words of George Sharswood: 'Truth, simplicity and candor, these are the cardinal virtues of a lawyer.' Let us hope that each new man, as he takes up the work of teaching here, will consider well the labors for the cause of legal education of such men as he who framed this sentence, of such men as Morris, as Mitchell, and as Hare. These men not only taught the students the law, but impressed them with



McKEAN HALL.—ONE OF THE READING ROOMS.

some of the dignity of their own character and their own devotion to the profession. We, and those who will take up our work when we lay it down, by following the example of their devotion, may perhaps also be able to write in the hearts of our students those three all-embracing words—'truth,—simplicity,—candor.'

The closing address was delivered by JAMES BARR AMES, A.M., Dean of the Harvard Law School. Professor Ames spoke on "The Vocation of the Law Professor," as follows:

On a broad shaded street in one of the most beautiful of New England villages, stands an attractive old Colonial house, the residence, at the close of the American Revolution, of a Connecticut lawyer. Hard by the house was the owner's law office, a small one-story wooden building much resembling the familiar district schoolhouse. There was nothing about it to catch the eye, but it has a peculiar interest for the lawyer, as the birthplace of the American Law School. For it was to this building that young men came from all parts of the country to listen to the lectures of Judge Reeve, the founder of the celebrated Litchfield Law School.

It is indeed a far cry from the small lecture room of Judge Reeve to this noble structure destined to be for centuries the spacious and well-appointed home of a great university law school. From her humbler home in Cambridge, I gladly bring the greetings and congratulations of the elder to the younger sister, and I am deeply sensible of the privilege of saying here a few words upon a topic that is near to the hearts of both.

On this red-letter day in the history of law schools, we may look back for a moment upon the path of legal education, if only to take courage for further achievement, as we watch the steadily growing conviction, in this

country at least, that law is a science, and as such can best be taught by the law faculty of a university.

With the revival of interest in the Roman Law, students flocked to the mediæval universities, notably to Bologna and Paris; and in countries where the system of law is essentially Roman, the tradition of obtaining one's legal education at a university has continued unbroken. Indeed, upon the continent of Europe a university law school is the only avenue to the legal profession. But the English law was not Romanized. For this, any one who thinks of trial by jury, of the beneficence of English equity, and of the unrivaled English judiciary, may well be thankful. But as a consequence of the non-acceptance of Roman Law, early English lawyers were not bred at Oxford or Cambridge. For the universities were in the hands of the ecclesiastics, who naturally confined their attention to the canon and civil law. Another reason may be found in the well-known dialogue between Lord Chancellor Fortescue and the young Prince of Wales in praise of the laws of England. The Prince having asked why the laws of England were not taught at the universities, the Chancellor replied: "In the universities of England sciences are not taught but in the Latin tongue, and the laws of the land are to be learned in the three several tongues, to witte, in the English tongue, the French tongue and the Latin tongue."

English lawyers, therefore, obtained their legal training in London, and, in early times, at the Inns of Court, which, with the dependent Chancery Inns, were called by Fortescue and Coke a legal university. In the days of these writers, the term was not inapt. The membership of the inns was made up of students, resident graduates, called barristers, readers or professors, and benchers, or ex-professors, all living together in their dormitories and dining-halls, in that spirit of comradeship which has added so much to the attractiveness and influence of the legal profession. They lived, too, in an atmosphere of

legal thought. Every day after dinner, and every night after supper, there were discussions of legal questions after the manner of a moot-court. There were also lectures by the old barristers, which were followed by discussions of the chief points of the lectures. But the lectures and discussions came in time to be regarded as too great a burden upon the lawyers. They were at first shortened, and finally, in the latter half of the seventeenth century, given up altogether.

A legal education being no longer obtainable in the Inns of Court, students of law trusted to private reading, supplemented at first by experience in attorneys' offices, but after Lord Mansfield's day, in the chambers of special pleaders, conveyancers or equity draughtsmen.

The decay of the Inns of Court seems not to have excited, for two hundred and fifty years, any adverse comment. But towards the middle of this reforming century many influential lawyers were impressed with the need of a better preparation for admission to the Bar. In 1846 a Parliamentary Commission, after hearing the testimony of a large number of witnesses, reported that the state of legal education in England was "extremely unsatisfactory and incomplete," and "strikingly inferior to such education in all the more civilized states of Europe and America," and recommended that the Inns of Court should resume their ancient function of a legal university. Five annual courses of lectures in law were the meagre result of this report.

In 1855 a second Parliamentary Commission, including Vice-Chancellor Wood, Sir Richard Bethell (Lord Westbury) and Sir Alexander Cockburn, recommended that a university be constituted with a power of conferring degrees in law. This recommendation had no effect. Some twenty years later, under the leadership of Lord Selborne, an attempt was made to bring about the establishment of a general school of law in London by the action of Parliament. But the attempt was unsuccessful.

Finally, six years ago, a third Parliamentary Commission reported in favor of a Faculty of Law in the proposed teaching University of London. And there the matter rests, although Lord Russell has recently expressed the hope "that the effort may once more be made, and this time successfully made, to establish what Westbury and Selborne hoped and worked for, a great school of law."

As a result of the agitation of the last sixty years, six readers and four assistant readers give some thirty hours of legal instruction per week throughout the year, and only those may be called to the Bar who have passed successfully certain examinations. These examinations represent about one-third of the work covered by those of the Law School of the University of Pennsylvania, and, in the opinion of competent judges, do not afford any trustworthy test of adequate knowledge of the law. No attendance is required at the readers' lectures or classes, and the actual attendance is small. There is no permanent teaching staff. The teachers are appointed for a term of three years. They may or may not be reappointed. Incredible as it may appear, at the end of their term, in 1898, the ten readers and assistant readers were all dropped and replaced by a wholly new decemvirate. The reason for this clean sweep is almost more surprising than the change itself. The Council of Legal Education, as one of the members informed Lord Russell, "thought if they did not effect frequent changes, and thus permitted the idea to grow up that the teachers should be continued in office so long as they did their work well, it would be interfering with them in the pursuit of their profession, and it would be unfair to remove them later." Lord Russell, in criticising this novel conception of a professorial staff, says truly that "such a policy renders it impossible to look to the creation of an experienced professional class of teachers." There is obviously a wide gap between this school of the Inns of Court and the leading law schools in this country with a three years' course, compul-

sory attendance, searching annual examinations, and a faculty of permanent professors.

One naturally asks, Why did not the universities assume the work of legal education which the Inns of Court abandoned? The answer is simple. The traditions of centuries were against such an innovation. It is true that the Vinerian professorship of the Common Law, to which we owe the world renowned Commentaries of Blackstone, was established at Oxford in the middle of the last century, and this was followed some forty years later by the similar Downing professorship at Cambridge. But only within the last thirty years has really valuable work been accomplished at the universities by a body of competent and permanent teachers. Even now the department of law at Oxford and Cambridge is not and does not claim to be a professional school. A large part of the curriculum is devoted to Roman Law, Jurisprudence and International Law, and a large majority of those who take the law course are undergraduates who propose to take their B.A. degree in law. Mr. Raleigh, one time Vinerian Reader in English Law, tells us that the best men at Oxford seldom begin the study of law until they go to London, and he thinks, in common with many others, that the ancient universities committed a grave mistake when they placed law among the subjects that qualify for the degree of B.A.

I regret to find that Sir Frederick Pollock considers this mistake irrevocable. American law professors would generally agree that a college student had better let law alone until he has completed his undergraduate course. Until the law course is made exclusively a post-graduate course, and Roman Law, Jurisprudence and International Law are made electives in the third year of the curriculum, instead of required subjects of the first year, and the staff of permanent professors materially enlarged, those of us who would like to see a strong professional school of law

at the English universities, are not likely to have our dreams realized.

There must be, of course, some sufficient reason why, notwithstanding the recommendations of successive Parliamentary Commissions, and the earnest efforts of men like Lord Westbury, Lord Selborne and Lord Russell, so little progress has been made, either in London or at Oxford or Cambridge, towards the establishment of a law school comparable to the best schools in other countries. A distinguished lawyer of this city suggested, many years ago, the quaint explanation that in a country in which the law consists of the decisions of the judges, "it might be politic not to encourage academic schools of the national jurisprudence lest ambitious professors and bold commentators should obtrude their private opinions, and instil doubts into the minds of the youth." The true explanation, it is believed, is that which was suggested by another eminent Philadelphia lawyer. Mr. Samuel Dickson, to whom we have had the pleasure of listening to-day, in his interesting address at the opening session of this school eight years ago, pointed out that no public inconvenience was felt from the calling to the Bar of gentlemen who were incompetent or unwilling to practice. For the barristers being engaged, under the English custom, not by the clients, but by the attorneys or solicitors, who were themselves experienced in law, the ignorant or incompetent barristers had no chance of obtaining any business, and dropped out of sight. Furthermore, the concentration of the entire body of barristers in London, and the unrivaled honors and emoluments that reward the successful lawyer so developed competition and so stimulated the ambition of the ablest men, as inevitably to produce a Bench and Bar of the highest merit and distinction.

If we turn now to this country, we find a marked contrast with the English experience in legal education. To the College of William and Mary, in Virginia, belongs the distinction of having the earliest law professorship in

the United States, a distinction due to the fertile genius of Jefferson, who, being appointed visitor to the college in 1779, wrote to a friend, in a tone of great satisfaction, that he had succeeded in abolishing the two professorships of divinity and substituting two others, one of medicine and one of law and police. Judge George Wythe, commonly known as Chancellor Wythe, was appointed professor, doubtless through the influence of Jefferson, who had been a pupil in his office. It is an interesting fact that John Marshall, as a student of the college, attended the first course of lectures given by the first American law professor. Three similar professorships were established in the last century, at Philadelphia, New York, and Lexington, Ky. It seems probable that these professorships were created with the hope that they would soon expand into university schools of law. Such an inference derives support from the high character of the first incumbents. Professor Wythe was a distinguished judge of the high Court of Chancery of Virginia, Professor Wilson, at Philadelphia, was an Associate Justice of the Supreme Court of the United States, and both were signers of the Declaration of Independence. Professor Kent, though a young man when first appointed, already ranked as a lawyer of exceptional ability and legal learning. To these honored names should be added that of Henry Clay, who, although the fact seems to have escaped his biographers, was for two years professor of law at Transylvania University, being the youngest full law professor, as well as the youngest senator, in our country's history. But the hopes that may have been entertained of developing schools of law out of these professorships were in the main doomed to disappointment. The private law school at Litchfield had for nearly twenty-five years no competitor, and throughout the fifty years of its existence was the only school that could claim a national character.

The oldest of the now existing law schools in this country is the school at Cambridge, which was organized in 1817. But for the first dozen years of its existence, the Harvard School was a languishing local institution. I cannot better present to you the gloomy outlook for this school at that time than by quoting from Provost Duponceau. In an address before the Philadelphia Law Academy in 1821, he advocated earnestly the establishment in Philadelphia of a National School of Law, and after alluding to the law lectures at the University of Cambridge, added: "If that justly celebrated University were situated elsewhere than in one of the remote parts of our union, there would be no need, perhaps, of looking to this city for the completion of the object which we have in view. Their own sagacity would suggest to them the necessity of appointing additional professors, and thus under their hands would gradually rise a noble temple dedicated to the study of our national jurisprudence. But their local situation precludes every such hope." Nor were the law schools of the University of Maryland, Yale and the University of Virginia, which were established between 1824 and 1826, in any sense rivals of the Litchfield School. At the termination of that famous private school in 1833, there were only about 150 students at seven university law schools. In the dozen years following, new schools were organized, and the school at Cambridge under the leadership of Story, in spite of its unfortunate situation, became a national institution. In 1850, when the Law School of the University of Pennsylvania was established by the auspicious election of Judge Sharswood as Professor of Law, our schools numbered fourteen, and in 1860 the number had risen to twenty-three, with a total attendance of about 1000 students, all but one of these schools forming a department of some university. In the thirty-five years since the Civil War more than eighty new schools have been organized, so that we have to-day 105 law schools, with an attendance

of about 13,000 students. Twenty-five years ago in none of the schools did the course exceed two years. To-day, fifty of the schools have a three years' course. Nearly ninety of these schools are departments of a university.

Valuable as the lawyer's office is and must always be for learning the art of practice, these figures show how completely it has been superseded by the law school as a place for acquiring familiarity with the principles of law.

It is an interesting illustration of the law of evolution that we Americans, starting from radically different traditions of legal education, by a wholly independent process, without any imitation of continental ideas, have adopted in substance the continental practice of university legal training.

What is the significance for the future of this remarkable growth of law schools? It means, first of all, the opening of a new career in the legal profession, the career of the law professor. This is a very ancient career in countries in which the Civil Law prevails. In Germany, for instance, a young man upon completing his law studies at the university, determines whether he will be a practicing lawyer, a judge or professor, and shapes his subsequent course accordingly. The law faculties are, therefore, rarely recruited from either practicing lawyers or judges. This custom will never, I trust, prevail in this country. Several of my colleagues at Cambridge think that a law faculty made up in about equal proportions of men appointed soon after receiving their law degree, and of men appointed after an experience of from ten to twenty years in practice or upon the Bench would give the best obtainable results. I should be willing to take the chances of a somewhat larger proportion of the younger men, if I believe them to have the making of eminent counselors or strong judges; and, surely, men lacking these qualifications ought never to be thought of as permanent teachers in a first-class law school. The

experience of the new law school at Leland Stanford University may fairly be expected to throw light on this problem. Next year, four of the five law professors in that school will be men who received their appointment within two years after taking their degree in law. They all graduated with distinction, and might look forward with confidence to a successful career at the Bar or on the Bench. I venture the prediction that this California school will ere long be in the front rank of American law schools. One of their faculty told me that their ambition was to make the Stanford Law School better than the best Eastern law schools, and added, with commendable enthusiasm, that he believed they would succeed within twenty-five years. May God speed them to their goal!

But whatever question there may be as to the just proportion in a law faculty of professors from the forum and from the university, there ought to be no doubt that the faculty should be made up almost wholly of men who devote the whole of their time to the university. The work of a law professor is strenuous enough to tax the energies of the most vigorous and demands an undivided allegiance.

At the present time about one-fourth of the law professsors of this country give themselves wholly to the duties of their professorships, while three-fourths of them are active in practice or upon the Bench. These proportions ought to be, and are likely to be, reversed in the next generation. At the law schools of Harvard, Columbia, University of Virginia, Washington and Lee, Cornell, Stanford and as many more, nearly all the professors give themselves exclusively to the academic life. The University of Pennsylvania, I am confident, will not be long in joining this group. There are, of course, occasional instances of men of exceptional ability, facility and capacity for work, and of such abundant loyalty—I need not go beyond the walls of this building for illustrations—

from whom it is better to accept the half loaf that they are ready to give, than the whole loaf of the next best obtainable persons. There is always the hope, too, that such men may, sooner or later, cast in their lot for good and all with the university. But it is a sound general rule that a law professorship should be regarded as a vocation and not as an avocation.

Of this vocation the paramount duty is, of course, that of teaching. Having mastered his subject, the professor must consider how best he can help the students to master it also. Different methods have prevailed at different times and places. At the Litchfield School, Judge Reeve and Judge Gould divided the law into forty-eight titles and prepared written lectures on these titles which they delivered, or rather dictated to the students, who took as accurate notes as possible, which they afterwards filled out and copied for preservation. A set of these notes, filling three quarto volumes of about five hundred pages each, was presented to the Harvard Law Library. The donor in his letter accompanying the gift wrote that these notes were so highly prized when he was a student at Litchfield that $100 and upwards were frequently paid for a set. At a time when there were very few legal treatises, this plan of supplying the students with manuscript text-books served a useful purpose. But with the multiplication of printed treatises, instruction by the written lecture, which Judge Story, as far back as 1843, characterized as inadequate, has been rightly superseded. The recitation or text-book method was for many years the prevailing method, and is still much used. A certain number of pages in a given text-book are assigned to the students, which they are expected to read before coming to the lecture room. The professor catechises them upon these pages, and comments upon them, criticising, amplifying and illustrating the text according to his judgment. In the hands of a master of exposition, who has also the gift of provoking discussion by putting hypothetical cases,

this method will accomplish valuable results. But the fundamental criticism to be made upon the recitation method of instruction, as generally handled, is that it is not a virile system. It treats the student not as a man, but as a schoolboy reciting his lesson. Any young man who is old enough and clever enough to study law at all, is old enough to study it in the same spirit and the same manner in which a lawyer or judge seeks to arrive at the legal principle involved in an actual litigation. The notion that there is one law for the student and another law for the mature lawyer is pure fallacy. When thirty years ago Professor Langdell introduced the inductive method of studying law, it was my good fortune to be in his first class at the Harvard Law School, so that we had an opportunity to compare his method with the recitation system. We were plunged into his collection of cases on Contracts, and were made to feel from the outset that we were his fellow students, all seeking to work out by discussion the true principle at the bottom of the cases. We very soon came to have definite convictions, which we were prepared to maintain stoutly on legal grounds, and we were possessed with a spirit of enthusiasm for our work in Contracts, which was sadly lacking in the other courses conducted on the recitation plan.

There are some very suggestive sentences in Lord Chief Baron Kelly's testimony before the Parliamentary Commission of 1855. He was giving his reasons, derived from his own experience, for setting a much higher value upon the experience in the chamber of a barrister or special pleader than upon courses of lectures. "Perhaps," he says, "there was too much copying. But there was also this—there were constant debatings, there were constant investigations of every case that came into the barrister's or pleader's chambers for his opinion and looking up of cases; and then the students, each giving his own opinion upon the case, and saying why he formed that opinion, by referring to authorities; and then the

barrister saying, my opinion is so and so, upon such and such grounds, correcting the errors of the one student, and approving of the course resorted to by the other. That was the way in which I learned the law, together with reading; and if I am to compel anybody to go through any course at all, it would be just that course." The Lord Chief Baron was exceptionally fortunate in his student experience. He was in truth at a private law school conducted on the sound principle of developing the student's powers of legal reasoning by continual discussion of the principles involved in actual cases. With the extinction of the special pleader there are few such schools left, even in London, and none at all in this country. One of my colleagues has said that if a lawyer's office were conducted purely in the interest of the student, and if, by some magician's power, the lawyer could command an unfailing supply of clients with all sorts of cases, and could so order the coming of these clients as one would arrange the topics of a scientific law-book, we should have the law-student's paradise. This fanciful suggestion was made with a view of showing how close an approximation to this dream of perfection we may actually make. If we cannot summon at will the living clients, we can put at the service of the students, and in a place created and carried on especially for their benefit, the adjudicated cases of the multitude of clients who have had their day in court We have only to turn to the reported instances of past litigation, and we may so arrange these cases by subjects and in the order of time as to enable us to trace the genesis and the development of legal doctrines. If it be the professor's object that his students shall be able to discriminate between the relevant and the irrelevant facts of a case, to draw just distinctions between things apparently similar, and to discover true analogies between things apparently dissimilar, in a word, that they shall be sound legal thinkers, competent to grapple with new problems be-

cause of their experience in mastering old ones, I know of no better course for him to pursue than to travel with his class through a wisely chosen collection of cases. These "constant debatings" in the class have a further advantage. They make easy and natural the growth of the custom of private talks and discussions between professor and students outside of the lecture rooms. Any one who has watched the working of this custom knows how much it increases the usefulness of the professor and the effectiveness of the school.

But the field of the law-professor's activity is not limited to his relations with the students, either in or out of the classroom. His position gives him an exceptional opportunity to exert a wholesome influence upon the development of the law by his writings. If we turn to the countries in which the vocation of the law-professor has long been recognized, to Germany, for instance, we find a large body of legal literature, of a high quality, the best and the greater part of which is the work of professors. The names of Savigny, Windscheid, Ihering and Brunner at once suggest themselves. These and many others are the lights of the legal profession in Germany. The influence of their opinions in the courts is as great or even greater than that of judicial precedents. Indeed, to our way of thinking, too much regard is paid to the opinion of writers and too little to judicial precedents, with the unfortunate result that the distinction of the continental judges is far less than that of the English judiciary. The members of the court do not deliver their opinions *seriatim*, nor does one judge deliver his written opinion as that of the court. The opinions are all what we call *per curiam* opinions. Furthermore, one may search the reports from cover to cover, and not be able to find the number or the names of the judges who constitute the highest court in the German Empire.

But, while the Germans might well ponder upon the splendid record and position of the judges in England and

in the best courts in this country, we, on the other hand, have much to learn from them in the matter of legal literature. Some of our law books would rank with the best in any country, but as a class our treatises are distinctly poor. The explanation for this is to be found, I think, in the absence of a large professorial class. We now at last have such a class, and the opportunity for great achievements in legal authorship is most propitious. Doubtless no single book will ever win the success of the Commentaries of Blackstone or Kent. And no single professor will ever repeat the marvelous fecundity of Story, who, in the sixteen years of his professorship, being also all those years on the bench of the Supreme Court, wrote ten treatises of fourteen volumes, and thirteen revisions of these treatises. We live in the era of specialization, and the time has now come for the intensive cultivation of the field of law. The enormous increase in the variety and complexity of human relations, the multiplication of law reports, and the modern spirit of historical research, demand for the making of a first-class book on a single branch of the law an amount of time and thought that a judge or lawyer in active practice can almost never give. The professor, on the other hand, while dealing with his subject in the lecture room, is working in the direct line of his intended book, and if he teaches by the method of discussion of reported cases, he has the best possible safeguard against unsound generalizations; for no ill-considered theory, no doctrinaire tendency can successfully run the gauntlet of keen questions from a body of alert and able young men encouraged and eager to get at the root of the matter. He has also in his successive classes the gratuitous services of a large number of unwitting collaborators. For every one who has ever written on a subject, which has been threshed out by such classroom discussion, will cordially agree with these words of the late Master of Balliol: "Such students are the wings of their teacher; they seem to know more than they ever

learn ; they clothe the bare and fragmentary thought in the brightness of their own mind. Their questions suggest new thoughts to him, and he appears to derive from them as much or more than he imparts to them."

Under these favoring conditions the next twenty-five years ought to give us a high order of treatises on all the important branches of the law, exhibiting the historical development of the subject and containing sound conclusions based upon scientific analysis. We may then expect an adequate history of our law supplementing the admirable beginning made by the monumental work of Pollock and Maitland.

But the chief value of this new order of legal literature will be found in its power to correct what I conceive to be the principal defect in the generally admirable work of the judges. It is the function of the law to work out in terms of legal principle the rules, which will give the utmost possible effect to the legitimate needs and purposes of men in their various activities. Too often the just expectations of men are thwarted by the action of the courts, a result largely due to taking a partial view of the subject, or to a failure to grasp the original development and true significance of the rule which is made the basis of the decision. Lord Holt's unfortunate controversy with the merchants of Lombard street is a conspicuous instance of this sort of judicial error. When, again, the Exchequer Chamber denied the quality of negotiability to a note made payable to the treasurer for the time being of an unincorporated company, they defeated an admirable mercantile contrivance for avoiding the inconvenience of notes payable to an unchartered company or to a particular person as trustee. Both mistakes were due to a misconception of the true principle of negotiability and both were remedied by legislation. It would be difficult to find an established rule of law more repugnant to the views of business men or more vigorously condemned by the courts that apply it, than the rule that a creditor who

accepts part of his debt in satisfaction of the whole, may safely disregard his agreement and collect the rest of the debt from his debtor. This unfortunate rule is the result of misunderstanding a *dictum* of Coke. In truth, Coke, in an overlooked case, declared in unmistakable terms the legal validity of the creditor's agreement. In suggesting these illustrations of occasional conflict between judicial decisions and the legitimate interests of merchants I would not be understood as reflecting upon the work of the judges. Far from it. The marvel is that in dealing with the many and varied problems that come before them, very often without any adequate help from the books, so few mistakes are made. From the nature of the case the judge cannot be expected to engage in original historical investigations, nor can he approach the case before him from the point of view of one who has made a minute and comprehensive examination of the branch of the law of which the question to be decided forms a part. The judge is not and ought not to be a specialist. But it is his right, of which he has too long been deprived, to have the benefit of the conclusions of specialists or professors, whose writings represent years of study and reflection, and are illuminated by the light of history, analysis and the comparison of the laws of different countries. The judge may or may not accept the conclusions of the professor, as he may accept or reject the arguments of counsel. But that the treatises of the professors will be of a quality to render invaluable service to the judge and that they are destined to exercise a great influence in the further development of our law, must be clear to every thoughtful lawyer.

It is the part of a professor, as well as of a judge, to enlarge his jurisdiction. Mention should, therefore, be made of the wholesome influence which the professor may exert as an expert counselor in legislation, either by staying or guiding the hand of the legislator.

The necessity of some legislation to supplement the

work of the judges, and the wisdom of many statutory changes will be admitted by all. But the power of legislation is a dangerous weapon. Every lawyer can recall many instances of unintelligent, mischievous tampering with established rules of law. One of the worst of such instances is the provision in the New York Revised Statutes of 1828, which changed radically the rule against perpetuities, and which called forth Professor Gray's criticism "that in no civilized country is the making of a will so delicate an operation and so likely to fail of success as in New York." Equally severe criticism may be fairly made upon the revolutionary legislation in the same State, in 1830, in regard to the law of trust. This new legislation has produced several thousand reported cases and has given to New York a system of trusts of so provincial a character, that in the opinion of Mr. Chaplin, the author of a valuable work on trusts, the ordinary treatises on that subject are deprived of much of their value for local use. A part of this provincial system worked so disastrously, and caused, as Chief Justice Parker has said in a recent opinion, so many "wrecks of original charities—charities that were dear to the hearts of their would be founders, and the execution of which would have been of inestimable value to the public," that it was at last abolished and the English system of charitable trusts restored. No one will be so rash as to regard the law professor as a panacea against the evils of unwise legislation. But I know of no better safeguard against such evils than the existence of a permanent body of teachers devoting themselves year after year to the mastery of their respective subjects. Then again the spirit of codification is abroad. It is devoutly to be wished that this spirit may be held in check, until we have a body of legal literature resting upon sound generalizations. If, however, codification must come prematurely, it is the part of wisdom to bring to the work the best expert knowledge in the country. The commission to draft the code should be composed of competent

judges, lawyers and professors, and, in the case of commercial subjects, business men of wide experience. The draft of the proposed code should be published in a form easily accessible to any one, and the freest criticism through legal periodicals or otherwise should be invited during several years. In the light of this criticism the draft should then be amended and revised. In Germany, where by far the best of modern codification is to be found, these cardinal principles are followed as a matter of course. They were almost completely ignored, and with very unfortunate results, in the preparation of the Negotiable Instruments Act, adopted by several of our States. We should surely mend our ways in future codifications. In Germany much of the best work in the drafting of the code and of the criticism of the draft is done by the professors. There is no reason why under similar methods the same might not be true in this country.

This, then, is the threefold vocation of the law professor—teacher, writer, expert counselor in legislation. Surely, a career offering a wide scope for the most strenuous mental activity, a stimulus to the highest intellectual ambition, and gratifying in abundant measure the desire to render high service to one's fellow-men. If the professor renounces the joy of the arena, and the intellectual and moral glow of triumphant vindication of the right in the actual drama of life, he has the zest of the hunter in the pursuit of legal doctrines to their source, he has that delight, the highest of purely intellectual delights, which comes when, after many vigils, some original generalization, illuminating and simplifying the law, first flashes through his brain, and, better than all, he has the constant inspiration of the belief that through the students that go forth from his teaching and by his writings, he may leave his impress for good upon that system of law which, as Lord Russell has well said, "is, take it for all in all, the noblest system of law the world has ever seen."

To those of us who believe that upon the maintenance and wise administration of this system of law rests more than upon any other support the stability of our government, it is a happy omen that so many centres of legal learning are developing at the universities all over our land. May the lawyers and the university authorities see to it that these law faculties are filled with picked men. Until the rural legislator has enlightened views of the value of intellectual service, we cannot hope to have on the bench so many of the ablest lawyers as ought to be there. But the universities, many of them at least, are not hampered by this difficulty. They have it in their power to add to the inherent attractiveness of the professor's chair such emoluments as will draw to the law faculty the best legal talent of the country. I have the faith to believe that at no distant day there will be at each of the leading university law schools, a body of law professors of distinguished ability, of national and international influence. That the Law School of this University will have its place among the leaders is assured, beyond peradventure, by the dedication of this building. The lawyers of future generations, as they walk through these spacious halls, and see this rich library, and the reading-rooms thronged with young men working in the spirit of enthusiastic comradeship, will say: "Truly it was a noble nursery of justice and liberty that the lawyers and citizens of Philadelphia erected in 1900"—but as they call to mind the distinguished lawyers and judges among the alumni, and as they read over the names of the jurist-consults on the professorial staff, men teaching in the grand manner, and adding lustre by their writings to the University and to the legal profession they shall add. "But those men of Philadelphia builded even better than they knew."

On the conclusion of these exercises the special guests of the University were entertained at private dinners given by members of the University Club, members of the Board of Trustees, and of the Faculties of the Uni-

versity of Pennsylvania, and members of the Philadelphia Bar. In the evening the exercises were continued at the American Academy of Music. The program as first arranged consisted of addresses by the Honorable John Marshall Harlan, Senior Associate Justice of the Supreme Court of the United States, the Honorable Sir Charles Arthur Roe, representing the University of Oxford, England, and Mr. Gerald Brown Finch, M. A., representing the University of Cambridge, England.

At half-past eight o'clock the procession moved from the green room to the stage, where the special guests of the University and Reception Committee were already seated, in the following order: Justice Harlan, with the Provost of the University; Sir Charles Arthur Roe, with the Chairman of the Committee of the Trustees on Law and Legal Relations; Mr. Finch, with the Dean of Faculty of the Department of Law, the members of the Committee of the Trustees on Law and Legal Relations, and the Faculty of the Department of Law. After music by the students' band of the University, Provost Harrison introduced JUSTICE HARLAN, who spoke as follows:

I congratulate the people of this great Commonwealth, especially the Provost, Trustees, Professors and Students of this famous University, on the auspicious character of this occasion. We are assembled to manifest our interest in the dedication of a new and magnificent building for the use of those who in this University impart and receive instruction in the science of law. All who have contributed in aid of its construction are entitled to the thanks of the lovers of liberty. When I speak of liberty, I mean such liberty as is enjoyed in this country. This fair land is in a peculiar sense the home of freedom—the freedom that takes account of man as man, that tolerates no government that does not rest upon the consent of the governed, and recognizes the right of all persons within its jurisdiction, of whatever race, to the equal protection of the laws in every matter affecting life,

liberty or property. In the vindication of those principles the American people will always need, as they have always had, the earnest, energetic support of the legal profession. Indeed, it is not too much to say that those who give their lives to the study, practice and administration of the law constitute the active corps of the great army of freedom. If they fall away from the line of duty and as a body become false to the essential guarantees of life, liberty and property—if from want of courage or principle they retire before the advancing hosts of communism and anarchy—we may expect our freedom to be displaced by despotism and lawlessness. Only the ignorant or narrow-minded inveigh against lawyers as a class; for candid students of history admit that in every crisis in which freedom has been put in peril by bad men or bad governments, Judges and Lawyers have stood forth as the fearless champions of right, the enemies of wrong and oppression. This has never been more distinctly illustrated than in the lives of the Judges and Lawyers of this imperial Commonwealth. Pennsylvania may well take pride in the fact that no State of the Union has given to the world a larger number of eminent Judges and Lawyers. Among those who have adorned the Bench are Wilson, Baldwin, Grier, Strong, McKean, William Tilgham, Gibson, Sharswood, Black, Thompson and Cadwalader. Among those of extraordinary ability and learning as lawyers I may mention Ingersoll, Edward Tilgham, Rawle, Binney, Sergeant, Meredith, Campbell and Biddle. The memory of those distinguished men is warmly cherished by the legal profession. You of that profession in Pennsylvania can hold up their names and without boasting say to your brethren of other States: Match them if you can—surpass them you cannot.

When I accepted the invitation to deliver an address on this occasion my first thought was to trace the history of the University of Pennsylvania and say something of the men whom it had trained and sent out into the vari-

ous walks of life. But that thought was abandoned because it was found that those who were graduated from the University and who had shed honor upon its instructors were too numerous to be mentioned upon any one occasion.

It finally occurred to me as appropriate to this meeting to speak of the public career of James Wilson, and particularly of the principles of constitutional law for which he stood when the present Union was established. I am moved to this by the fact that he was the first Professor in a College of Law which was established in this city in the last century, and was subsequently merged into the University of Pennsylvania. It is an interesting fact that President Washington and his cabinet and the leading members of the Congress of the Confederation attended the opening lecture of Professor Wilson. Those lectures have been preserved, and are familiar to every student of constitutional law. But he was not distinguished alone as a pioneer in American Jurisprudence. He was a member of the Second Congress that assembled in this city in May, 1775, continuing in that branch of the public service for some years ; a Signer of the Declaration of Independence ; a prominent member of the Convention that framed the present Constitution of the United States, and, by appointment of Washington, an Associate Justice of the Supreme Court of the United States. When the University of Pennsylvania is mentioned, we of the legal profession at once think of its most eminent Professor of Law. And as the University is about to enter upon a wider career of usefulness it is well to recall some of the services rendered by that remarkable man, and refer to the principles by which his public career was guided. In doing so I must omit any reference to his earlier life, except to say that in 1774, when only thirty-two years of age, in a pamphlet relating to the legislative authority of the British Parliament and which attracted great attention, Wilson disclosed the broad ground upon which his political

faith rested, by declaring that all men—not some men, not men of any particular race or color, but "*all* men are by nature equal and free"—the same great principle subsequently embodied in the Declaration of Independence.

I come at once to the period when the momentous question as to the formation of a new government in place of that established by the Articles of Confederation was agitated. Every statesman of that day—no one more fully than Wilson—recognized the inherent weakness of the organization then existing and the absolute necessity for another form of government. The Articles of Confederation, although contemplating perpetual union, were addressed to the States by name. They declared that each State retained its sovereignty, freedom and independence, and every power, jurisdiction and right that was not by those Articles expressly delegated to the United States in Congress assembled. This restriction closed the doors against the exercise of implied powers, however necessary they might be to the effective exercise of the powers expressly granted. The Articles established a mere league between sovereign States. All expenses incurred for the common defense or the general welfare were to be defrayed out of funds to be supplied only by taxes levied by the States. In this last provision lay the inherent vice of the Articles of Confederation. While to the government created by them was committed the duty of maintaining the unity of the country in time of war, it had no power, in and of itself, to raise the money necessary to accomplish that end. It could not lay and collect taxes. It leaned entirely upon the State governments, and in no legal sense upon the people of the States. If for any cause one State refused to furnish its part of the money necessary to defray the general expenses, Congress was without power to compel it to do so. This defect was sorely felt during the Revolutionary War; and when the common enemy recognized the independence of America,

there arose on all sides a cry for a government that would be one in fact as well as in name. The situation is described with great force by Mr. Justice Story, in his Commentaries on the Constitution: "Congress in peace was possessed of but a delusive and shadowy sovereignty, with little more than the empty pageantry of office. They were, indeed, clothed with authority of sending and receiving ambassadors; of entering into treaties and alliances; of appointing courts for the trial of piracies and felonies on the high seas; of regulating the public coin; of fixing the standard of weights and measures; of regulating trade with the Indians; of establishing post offices; of borrowing money and emitting bills of credit; of ascertaining and appropriating the sums necessary for defraying the public expenses, and of disposing of the western territory. And most of these powers required for their exercise the assent of nine States. But they possessed not any power to raise any revenue, to lay any tax, to enforce any law, to secure any right, to regulate any trade, or even the poor prerogative of commanding means to pay its own ministers at a foreign court. They could contract debts, but they were without means to discharge them. They could pledge the public faith, but they were incapable of redeeming it. They could enter into treaties, but every State in the Union might disobey them with impunity. They could contract alliances, but they could not command men or money to give them vigor. They could institute courts for piracies and felonies on the high seas, but they had no means to pay the judges or the jurors. In short, all powers which did not execute themselves were at the mercy of the States and might be trampled on with impunity." Washington said the Confederation was "a half-starved limping government, always moving upon crutches and tottering at every step; and that what was needed was an indissoluble union of States, with power in the Federal head to regulate and govern the general concerns of the country, the States retaining control of all matters of a

local character. The Confederation has been well described as a government that had power to *declare* everything, without the power to *do* anything. The statesmen of that day, James Wilson among the number, demanded the creation of a government, with authority to exert every power conferred upon it against all comers, whether States or armed combinations of individuals. Of course many deemed it impossible for the patriots of the Revolutionary period to establish, much less to maintain, such a government. But if the pessimists of those times could reappear upon the earth and look over this country now extending from ocean to ocean, with more than seventy millions of prosperous, happy and contented people, all standing under one flag, all obedient to the same constitution, so strong that there are none to molest or to make them afraid, he would see that he had misapprehended the capacity of our fathers to lay the foundation of free institutions grounded upon the principle, vital in our republican system, of local rule in respect of local matters, and national rule in respect of national matters.

It was in this city, in a building still standing, Independence Hall, that the Convention met that gave to America the matchless Constitution under which our people have lived for more than a century. In that historic Hall James Wilson was often heard in support of the essential principles of stable government. He was recognized as the most learned member of that notable body. Webster said that Justice was the great interest of man on earth. Of Justice as illustrated by the science of the law Wilson had been an earnest devotee from his early manhood. In the highest and best sense he was a great Lawyer. Still more, he had become a master in the science of Government. He was therefore pre-eminently qualified to take part in laying the foundations of institutions under which the rights of man would be secure against the assaults of power. What a privilege it was to look upon that convention of patriots and statesmen—

the wisest assemblage of public servants that ever convened at any time in the history of the world—no one of them wiser than James Wilson.

The Convention met in September 1787, all the States except one being represented. Its composition and the history of its proceedings will always interest the student of American history. Its President was Washington. Its most conspicuous members were Franklin, Wilson and Robert Morris of Pennsylvania, Madison and Mason of Virginia, King of Massachusetts, Sherman of Connecticut, Hamilton of New York, Paterson of New Jersey, Dickinson of Delaware, Rutledge and the Pinckneys of South Carolina.

The historian McMaster, an honored Professor of this University, in an article relating to the Convention, says: "Hardly one of them but had sat in some famous assembly, had signed some famous document, had filled some high place, or had made himself conspicuous for learning, for scholarship, or for signal services rendered in the cause of liberty. One had framed the Albany plan of Union, some had been members of the Stamp Act Congress of 1763, the names of others appear at the foot of the Declaration of Independence and at the foot of the Articles of Confederation; two had been Presidents of Congress; seven had been or were then Governors of States; twenty-eight had been members of Congress; one had commanded the armies of the United States; another had been superintendent of finance; a third had been repeatedly sent on important missions to England, and had long been Minister to France."

The solemn responsibility which the members of the Constitutional Convention felt appears from a letter of the celebrated George Mason, in which he said: "May God grant we may be able to gratify them by establishing a wise and just government. For my own part I never before felt myself in such a situation, and declare I would not, upon pecuniary motives, serve in this Convention for

a thousand pounds per day. The revolt from Great Britain and the formation of our new government at that time were nothing compared with the great business now before us. There was then a certain degree of enthusiasm, which inspired and supported the mind; but to view, through the calm and sedate medium of reason, the influence which the establishments now proposed may have upon the happiness or misery of millions yet unborn, is an object of such magnitude as absorbs, and in a manner suspends, the operations of the human understanding." "The establishment of a constitution," said Hamilton, "in time of profound peace, by the voluntary consent of a whole people, is a prodigy to the completion of which I look forward with trembling anxiety."

The Constitution as framed was far from being satisfactory to every member of the Convention. But there pervaded the body a spirit of amity and concession. All believed that upon the acceptance of the proposed Constitution depended the Union of the States and the existence of our liberties—for all felt that a common government with ample power to deal with matters that concerned the people of all the States was absolutely necessary to preserve the fruits of the struggle for independence. Said Hamilton: "I am anxious that every member should sign. A few by refusing may do infinite mischief. No man's ideas are more remote from the plan than my own are known to be; but is it possible to deliberate between anarchy and convulsion on one side, and the chance of good to be expected from the plan on the other?"

The closing scenes of the Convention must have possessed extraordinary interest for those present. Just before the delegates signed the Constitution, the venerable Franklin, then past eighty years, fearing that some hesitated to sign, said: "The opinions I have had of its errors, I sacrifice to the public good. Within these walls they were born, and here they shall die. If every one of us, in returning to our constitutents, were to report the objec-

tions he had made to it, and endeavor to gain partisans in support of them, we might prevent its being generally received, and thereby lose all the salutary effects and great advantages resulting naturally in our favor, among foreign nations as well as among ourselves, from our real or apparent unanimity. Much of the strength and efficiency of any government in procuring and securing happiness to the people depends on opinion—on the general opinion of the goodness of the government, as well as of the wisdom and integrity of its governors. I hope, therefore, that for our own sakes as part of the people, and for the sake of our posterity, we shall act heartily and unanimously in recommending this Constitution wherever our influence may extend, and turn our future thoughts and endeavors to the means of having it well administered." And we have the authority of Madison for this interesting circumstance: "Whilst the last members were signing, Dr. Franklin, looking towards the President's chair, at the back of which, on the wall, a rising sun happened to be painted, observed to a few members near him that painters had often found it difficult in their art to distinguish a rising from a setting sun. 'I have,' said he, 'often and often, in the course of the session, and the vicissitude of my hopes and fears as to its issue, looked at that sun behind the President, without being able to tell whether it was rising or setting; but now, at length, I have the happiness to know that it is a rising and not a setting sun.'"

Another interesting fact has been stated in connection with the closing scenes of the Convention. In the diary of Washington—the anniversary of whose birthday we celebrate to-morrow—it is recorded that, on the evening of the day when the Convention finally adjourned, he retired at an early hour "to mediate on the momentous work which had been executed"—an eloquent picture unconsciously drawn for us with his own hand. We may well believe that the deep, calm nature of that man of massive mould was profoundly stirred when, at the close

of that memorable day, he looked forward into the future and attempted to forecast the destiny of his beloved country under the form of government proposed for its adoption. If the work then executed appeared to him to be momentous in its character and in its probable results, how much more so does it appear to us, as we look back over the wonderful history of this wonderful nation! When we think of what he did for our country, we cannot be surprised at the estimate placed upon him by Gladstone. In a letter written by that distinguished statesman as late as 1884, he said: "If among the pedestals supplied by history for public characters of extraordinary nobility and purity, I saw one higher than all the rest, and if I were required at a moment's notice to name the fittest occupant of it, I think my choice, at any time during the last forty-five years, would have lighted, and it would now light, upon Washington."

We come now to the period when the people of the original States were considering whether they would accept or reject the proposed Constitution. The struggle was one of surpassing interest: Every conceivable objection was raised against the adoption of the Constitution. It was a hand-to-hand contest, and in the front rank of the friends of the proposed Union was James Wilson. Upon the result, the friends of the Constitution felt, depended all that was worth preserving.

The chief interest centered around the conventions in Pennsylvania, Massachusetts, Virginia and New York, the most powerful and influential of the States. By the terms of the submission the Constitution went into effect when nine States should adopt it.

In the Pennsylvania Convention the recognized leader of the Constitutional forces was Wilson, the only member of that body who had been a member of the Convention that framed the Constitution. Standing with him in that memorable contest was Thomas McKean, an able statesman and an enlightened jurist, who was declared by John

Adams to be one of the best tried and foremost pillars of the Revolution. Wilson's speeches in that Convention have been characterized as the most comprehensive and luminous commentaries on the Constitution that have come down from that period. In his late work on the American Commonwealth, Bryce expressed the opinion that Wilson's speeches "in the Pennsylvania Ratifying Convention, as well as in the great Convention of 1787, display an amplitude and profundity of view in matters of constitutional theory which place him in the front rank of political thinkers of his age." Those of the opposition whom he met in debate in the Pennsylvania Convention were men of marked ability and undoubted courage. The Constitution, he frankly stated, was not in every respect what he desired. "But," he said, "when I reflect how widely men differ in their opinions, and that every man—and the observation applies likewise to every State—has an equal pretension to assert his own, I am satisfied that anything nearer to perfection could not have been accomplished. If there are errors, it should be remembered that the seeds of reformation are sown in the work itself, and the concurrence of two-thirds of the Congress may at any time introduce alterations and amendments. Regarding it then in every point of view, with a candid and disinterested mind, I am bold to assert that it is the best form of government which has ever been offered to the world." In reply to the suggestion that the Constitution proposed for acceptance worked the destruction of the State governments, Wilson declared the contrary to be capable of demonstration, saying that "the State governments must exist, or the General Government must fall amidst their ruins." Alluding to certain observations of Mr. Findley, he said: "His [Findley's] position is, that the supreme power resides in the States, as governments, and mine is, that it resides in the people, as the fountain of government; that the people have not—that the people mean not—and that the people ought not, to part with it to any

government whatsoever. In their hands it remains secure. They can delegate it in such proportions, to such bodies, on such terms, and under such limitations, as they think proper. I agree with the members in opposition, that there cannot be two sovereign powers on the same subject." "My position is, sir, that in this country the supreme, absolute and uncontrollable power resides in the people at large; that they have vested certain proportions of this power in the State governments, but that the fee simple continues, resides and remains with the body of the people."

All are familiar with the history of the memorable debate in the Senate of the United States between the Expounder of the Constitution and those holding that the General Government was a mere league or compact between sovereign States from which any State could withdraw at pleasure, and thereby dissolve the Union ordained and established by the People of the United States. But Webster was not the first statesman who expressed the thought that this government was not a mere league or compact between sovereign States, although it devolved upon him to demonstrate—and all America now agrees that he did demonstrate, with unsurpassed power of logic, reasoning and eloquence—that the Union could not be legally dissolved by the act of any States, and could only be overturned by revolution. Wilson, in the Pennsylvania Convention of 1787, had, long before that debate, said: "This, Mr. President, is not a government founded upon compact; it is founded upon the power of the people. * * * The system itself tells you what it is; it is an ordinance and establishment of the people. I think that the force of the introduction to the work must by this time have been felt. It is not an unmeaning flourish. The expressions declare, in a practical manner, the principle of this Constitution. It is ordained and established by the people themselves; and we, who give our votes to it, are merely the proxies

of our constituents. We sign it as their attorneys, and as to ourselves we agree to it as individuals. This system, sir, will make us a nation, and put it in the power of the Union to act as such. We will be considered as such by every nation in the world. We will regain the confidence of our own citizens and command the respect of others."

"I am astonished," exclaimed Wilson in debate, "to hear the ill-founded doctrine that States alone ought to be represented in the Federal Government; these must possess sovereign authority, forsooth, and the people be forgot! No; let us *reascend* to first principles. * * * The people of the United States are now in the possession and exercise of their original rights, and while this doctrine is known and operates we shall have a cure for every disease." "The streams of power," he said, "run in different directions, but they all originally flow from one abundant fountain. In this Constitution all authority is derived from the people." In one of his last appeals to the Convention for the ratification of the proposed Constitution, he said: "By adopting this system, we shall probably lay a foundation for erecting temples of liberty in every part of the earth. It has been thought by many that on the success of the struggle America has made for freedom will depend the exertions of the brave and enlightened of other nations. The advantages resulting from this system will not be confined to the United States; it will draw from Europe many worthy characters, who pant for the enjoyment of freedom. It will induce princes, in order to preserve their subjects, to restore to them a portion of that liberty of which they have for so many ages been deprived. It will be subservient to the great designs of Providence, with regard to this globe, in the multiplication of mankind, their improvement in knowledge, and their advancement in happiness."

In view of these declarations by Wilson as to the

scope of the Constitution presented for adoption or rejection, one cannot be surprised that when he became an Associate Justice of the Supreme Court of the United States he said in one of his opinions: "Whoever considers, in a combined and comprehensive view, the general texture of the Constitution, will be satisfied that the people of the United States intended to form themselves into a Nation for national purposes. They instituted for such purposes a National Government complete in all its parts, with powers legislative, executive and judicial; and in all those powers extending over the whole nation."

Wilson and his associates succeeded in the Pennsylvania Convention; for that body, representing the people, accepted the Constitution by a vote of forty-six to twenty-three. Accompanied by the President, and Vice President of the State, members of Congress, the Faculty of the University and other officials, the members of the Convention proceeded to the Court House, and the ratification was read to an immense concourse of people. Cannon were fired and the bells on public buildings and churches were rung as evidence of the popular joy. This happy result was mainly due to Wilson. Bancroft the historian has gone so far as to say, in reference to Wilson's services in the Pennsylvania Convention, that "but for one thing, without doubt, Pennsylvania would have refused to have ratified the Convention, and that one incident marks alike the technical knowledge, the comprehensive grasp, and the force of argument, of this great man." The effect of the action of Pennsylvania upon Conventions in other States was everywhere recognized.

In the Massachusetts Convention the leaders in debate were King, Ames and Parsons. The final vote was one hundred and eighty-seven for and one hundred and sixty-eight against the acceptance of the Constitution. A change of ten votes would have produced a different result. The acceptance of the Constitution by Massa-

chusetts although unconditional was accompanied by resolutions expressing her opinion that the adoption of certain amendments and alterations "would remove the fears and quiet the apprehensions of many of the good people of the Commonwealth, and more effectually guard against an undue administration of the Federal Government."

In Virginia there was a long and bitter contest. Washington was not in the Convention, but he was the real commander of the Virginia Constitutional forces. Indeed, from his quiet retreat at Mount Vernon he conducted the campaign for the Constitution throughout the whole country. To Patrick Henry he transmitted a copy of the Constitution, confessing that while it did not contain all that he desired, its adoption was of the last consequence. "From a variety of concurring events," he wrote, "it appears to me that the political concerns of this country are in a manner suspended by a thread," and if nothing had been agreed upon by the Convention, "anarchy would soon have ensued, the seeds being deeply sowed in every soil." To Edmund Randolph he declared that the proposed Constitution, "or a dissolution of the Union awaits our choice, and is the only alternative before us." To Lafayette he wrote: "There is no alternative, no hope of alteration, no intermediate resting place between the adoption of the Constitution and a recurrence to an unqualified state of anarchy, with all of its deplorable consequences." The leaders in the Virginia Convention for the Constitution were Madison, Pendleton, Randolph, Nicholas and Marshall. The opposition was led by Henry, Lee, Grayson, Monroe and Mason. They opposed the acceptance of the Constitution in the belief that it tended to the destruction of the States, by creating a vast, consolidated, all-powerful central government, that would ultimately overthrow the principle of local government for local affairs. The position these men took did not prove them to be wanting in patriotism; for they were foremost

throughout the Revolutionary period in asserting the rights of American freemen.

The position in which the Virginia Convention was placed was very peculiar. While the debate was in progress, it was known that eight States had accepted the Constitution. The others were supposed to be holding back to see what Virginia would do. The final vote was eighty-nine for and seventy-nine against the Constitution. When the friends of the Constitution prevailed, it was supposed that Virginia was the ninth State to accept. But in fact, unknown to the members of that Convention, New Hampshire had accepted the Constitution before Virginia. As soon as New Hampshire voted for it, a messenger was sent to Virginia to carry the good news to the friends of the Constitution there; and as soon as Virginia accepted it, a messenger was sent to New Hampshire to notify its friends there and give them encouragement. These messengers passed each other on their respective routes without meeting. So that New Hampshire and Virginia each voted in ignorance of what the other had done.

The struggle in the New York Convention was extraordinary in every view. When the Convention met there was a very large majority under the lead of strong men, against accepting the Constitution. The minority was led by Alexander Hamilton. A writer has said that the debates in the New York Convention were like a "Homeric battle, Hamilton against a host;" that his mind, "like an ample shield, took all their darts, with verge enough for more." Unfortunately there is no full report of that great debate. But it has come to us from that time that the display of intellectual power in those debates by young Hamilton was most extraordinary—the more so because he did not altogether approve the plan of government devised by the Constitution and had accepted it only from a high sense of duty and patriotism. It has been said of him that "of all men who have ever lived in

the United States, his was the most complete mind. He seemed to absorb information. Upon any subject he could leap fully armed into the saddle, ready to meet all comers. If right, he was irresistible; if wrong, master of sophistry, he was almost irrefutable." Talleyrand, who was acquainted with all the celebrated men of his day, said that the greatest he had ever known were Napoleon, Fox and Hamilton, and that Hamilton was the first.

As the debate was about to close, the news came that New Hampshire had accepted the Constitution. That information was brought by the messenger sent to Virginia, who stopped en route in New York. And when in a day or so the news came that Virginia had also accepted the Constitution the opposition in New York gave way. New York did not accept the Constitution in distinct and unqualified terms. But its acceptance was legally sufficient. The vote was thirty for, to twenty-seven against, acceptance. In the circular letter sent by New York to the Governors of the States we find these words: "Our attachment to our sister States, and the confidence we repose in them, cannot be more forcibly demonstrated than by acceding to a government which many of us think very imperfect, and devolving the power of determining whether that government shall be rendered perpetual in its present form, or altered agreeably to our wishes and a minority of the State with whom we unite."

Thus was born the present Union of the States. The predictions of those who prophesied evil from its creation have not been verified. The hopes of those who said it would preserve all that had been won by the war for independence have been more than fulfilled. It is a strong government because its powers are enumerated and are sufficient to accomplish the object of its creation —strong also because it really rests upon the consent of the people.

The secret of the success that attended the framing of the Constitution was well expressed by James Russell

Lowell when in his address in England on Democracy he said: "They (the framers of the Constitution) had a profound disbelief in theory, and knew better than to commit the folly of breaking with the past. They were not seduced by the French fallacy that a new system of government could be ordered like a new suit of clothes. They would as soon thought of ordering a new suit of flesh and skin. It is only on the roaring loom of time that the stuff is woven for such a vesture of their thought and experience as they were meditating."

"The best reason," another American said, "for American pride in the Constitution lies, not in the creative genius of its framers, nor in the beauty and symmetry of their work, but in the fact that it was and is a perfect expression of the institutional methods of its people." And therein is found full justification for the observation that "the statesmen of the American Revolution have taken their places once for all amongst the great political instructors of the world."

This work of the fathers is not however to be underrated because largely based upon experience. For, as said by David Hume in one of his essays, "to balance a large estate or society, whether monarchical or republican, on general laws, is a work of so great difficulty that no human genius, however comprehensive, is able by the mere dint of reason and reflection to effect it. The judgment of many must unite in the work; experience must guide their labor; time must bring it to perfection; and the feeling of inconveniences must correct the mistakes which they inevitably fall into in their first trials and experiments."

Let us examine for a few moments the distinguishing features of the old government that Wilson assisted in displacing and the new government that he aided in establishing. As already observed, the Articles of Confederation were addressed to the State governments, while the Constitution speaks to individuals as well

as to the States. Under the Articles of Confederation it was "We, the States," while under the Constitution it is, "We, the People of the United States." The Union created by the Constitution does not depend upon the will of any State or combination of States. It cannot be laid aside at pleasure. It has within itself the means of perpetuating its own existence. Its hand reaches to the remotest corners of the Republic, and its power compels obedience to the Constitution as the Supreme Law of the Land, anything in the Constitution or laws of any State to the contrary notwithstanding. When the Government of the United States acts within the limits of the powers conferred upon it, it acts for all the People of the United States. No State can stand between any citizen and obedience to the rightful authority of the Union.

In the time of the Confederation a squad of discontented soldiers, less than one hundred in number, appeared in front of Independence Hall, in which Congress was sitting, and demanded the enactment of certain measures, thereby compelling that body, for the personal safety of its members, to change its place of meeting from Philadelphia to New Jersey. There was no power to protect even Congress in the discharge of its great functions. Pennsylvania did not interpose, and its executive did not care to come into conflict with his fellow citizens. The spectacle was thus presented of the Congress of the Confederation fleeing before a mob contemptible in numbers, however honest in purpose.

Early in the history of the present National Government, some citizens of this Commonwealth, being displeased with laws enacted by Congress for purposes of revenue, organized on a large scale what is called the Whisky Rebellion. They had many apologists in leading politicians of that day, who addressed them as the "dear people," whose rights were being destroyed by a despotic government. But Washington was at the head of affairs, and Hamilton was at his side. The Father of his Country

determined to vindicate the majesty of the law and sent troops under Light Horse Harry Lee to the scene of disturbance. The misguided insurrectionists dispersed as the national troops bearing the flag of the Union approached the locality of the disturbance.

In 1861, when it was sought by armed force to take the life of the Nation, there was power in the government of the Union to reinstate the National authority over every foot of our territory. In that hour of peril to all that was dear to us, the gallant sons of Pennsylvania were well to the front. The people of this Commonwealth will always cherish the memory of those brave soldiers of the Union. That our soldiers did not die in vain, that the American people were able to preserve the national life, that we have now a union of hearts and a union of hands, is due to the fact that our fathers established a government that could preserve its own life and enforce its own authority. And what power, let me ask, was given to that government that ought not to have been given to it, or that any one would now take from it? The power to lay and collect taxes, duties, imposts and excises, for the purpose of paying the debts and providing for the common defense and the general welfare of the United States; to borrow money on the credit of the United States; to regulate commerce with foreign nations and among the several States; to establish an uniform rule of naturalization; to pass uniform laws on the subject of bankruptcies; to coin money, and to regulate the value thereof; to establish post offices and post roads; to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries; to make treaties; to create a judiciary, competent to determine controversies between citizens of different States and controversies involving rights and questions arising under the Constitution, laws and treaties of the United States; to declare war; to raise and support

armies; to provide and maintain a navy; and to make all laws necessary and proper for carrying into execution these and other powers vested by the Constitution in the General Government—will any one now say that the Nation ought not to have such powers? Does any one suppose that those powers, or any of them, could be exerted by the States without imperiling the interests of the whole Nation? The rights that grow out of the exercise of these and other powers are essentially National rights, in the preservation of which we are all, without regard to party lines, deeply concerned. No higher duty rests upon us than to see to it—each one in his peculiar sphere of duty—that the general government is not shorn of any right belonging to it under the Constitution.

We have all been accustomed to hear of the tendencies of the General Government, by its various departments to encroach upon the rights of the States. There are some who never weary of saying that the Federal judiciary continually usurps powers that do not belong to it, and seeks to impair the rightful authority of the States. The truth is that the National Government has been compelled, from its organization, to struggle for the privilege of existing and of exerting its rightful powers. Every exercise of power by the United States has been narrowly watched, criticised and, often without reason, opposed, under the pretence that States' Rights were being destroyed. But, although it is literally true that the Nation has had to fight for its right to exert its rightful authority, it must be said that opposition to the exercise of power by the National Government is not altogether unnatural. In a large sense we all stand for local rule. The germinal idea of American liberty is local self-government. We are home rulers by instinct, a feeling that has its root in affection for our own families above other families. Each man loves, above all other places, the one in which he was born and reared. When he returns to the old homestead in which he first saw the light of day,

or in which his youth was passed, he cannot repress emotions of love for that particular place. Why, here is the same old bucket that hung in the well when he was a boy. Here is the apple tree from whose branches was suspended his swing; every bud and tree and flower is dear to him because this was his home. So we love the town or city in which we live. The good people of this beautiful city like it better, I doubt not, than any other city, even in Pennsylvania. And the man of Pennsylvania would be looked upon with distrust, or as not a true son of this great Commonwealth, if he was not ready under all circumstances to say—indeed, to prove—that the women of Pennsylvania were the handsomest women, the people of Pennsylvania the best people, and Pennsylvania the best State in all the world. In view of these tendencies in our natures, it may be expected that the States should be, now and then, jealous of the exercise of power by the General Government. It is, perhaps, well that they are, because it is as true to-day, as it was in the times of the Revolution, as it was far back in the periods of English history when the people won their rights from despotic rulers only by hard blows, that real liberty—the liberty that means something and for which men will die—depends not so much upon the absence of actual oppression, as upon the existence of constitutional checks that will keep governmental authority within proper bounds, and render oppression impossible. The disposition in all ages of many in authority to exceed their just powers has riveted in the hearts of the people the stern maxim that "eternal vigilance is the price of liberty." Watch the National Government then, if you will—scan closely all that it does or proposes to do—resist, within the limits of the law, all tendencies that are hostile to the reserved rights of the States. But let us at the same time remember that our all, and perhaps the hopes of freemen everywhere depend upon the recognition of the right of the National Government to exercise the powers belonging

to it under the Constitution. And that right becomes the more important as our nation expands in population and territory. Careful men have estimated that our country when fully developed is capable of sustaining a population of one thousand millions of people. The time is certain to arrive, if this people remain true to their great destiny, when our Nation will be, if it has not already become, the most powerful factor in all movements that affect the peace of the world and the rights of man. The stronger we become in population and the more extended we become in territory, the more vital are the powers of the Nation ; for only the government of the Nation—which as said by Chief Justice Marshall, is the government of all, whose powers are delegated by all, and which represents and acts for all—can keep all parts of our land together, as it was intended they should be kept, in the bonds of indissoluble Union.

These observations about the rights of the Nation have been made because of the tendency in some quarters to deny to it rights and powers that are essential to our existence as one people, But do not suppose that I undervalue the rights of the States. There are National Rights and there are State Rights. To the States we must look primarily for protection in our lives, our liberties and our property. They have rights, as sacred as are the rights of the Nation. The State governments are vital in our constitutional system. Indeed, without the States under the Constitution there could be no United States of America. The States deal with matters over which it would be impossible for the National Government to exercise proper supervision. Those who speak slightingly of State rights do not appreciate the real significance of the relations of the States to the General Government. The fact is, we are coming to feel more than ever before that our liberties are involved in the preservation of the rights of the States. There are some who affect to think that the States stand in the way of

accomplishing the great objects of the National Government and who would destroy them by such interpretations of the National Constitution as would leave them but shadows of governments. There are others who affect to see in every act of Congress a purpose to overturn the rightful authority of the States. The teachings of each of these classes are to be disregarded. We are not deceived by them. The people, the common people, of whom Lincoln spoke, know that the rights of the State, in their highest and best constitutional sense, have been preserved and are in no danger whatever from the action of the General Government. The real friends of State rights are those who concede to the General Government the powers committed to it by the National Constitution, and the real friends of the Union are those who respect the reserved powers of the States.

Only a short time ago might have been witnessed in London a spectacle which for magnificence and splendor has never been surpassed in the history of the world. The Houses of Parliament went in a body to present an address to Her Britannic Majesty, Queen Victoria. The Lord Chancellor of England, the highest judicial officer in the British Empire, kneeled before Her Majesty, and remained upon his knees until he had read the address of Parliament. He did not kneel because he was in the presence of a gracious woman—as any brave, manly person might well do—but because he was in the presence of a Sovereign. He and those whom he represented were subjects of a single human being exerting the powers of sovereignty. At one time in the history of this country a few misguided men left our shores and went to the aid of patriotic Cubans struggling to be free. They were arrested and condemned to be shot by order of the Captain-General of that oppressed island. When the time came for their execution William Crittenden, one of the number, was blindfolded and ordered to kneel, that his executioners might the more easily take his life. The

proud-spirited man, a descendant of a Revolutionary hero, with head erect and fearless of death, refused to kneel, and replied: "An American kneels only to his God!" In England, to use the language of Mr. Gladstone, the Sovereign "is the symbol of the Nation's unity, and the apex of the social structure; the maker (with advice) of the laws; the supreme governor of the Church; the fountain of justice; the sole source of honor; the person to whom all military, all naval, all civil service is rendered." Our Sovereign is not he who for the time wields the Executive power of the United States. *Our* Sovereign is the People. They are the source of power and justice in this land. Their will is expressed by written constitutions and by laws passed in pursuance thereof, and to that will all must yield obedience. No man here is so high that he is above the law. No one here assumes to rule by divine right, but only in the mode prescribed by law and that law comes into existence only by the consent of the People acting by their representatives. Our institutions emphatically rest upon the sovereignty of the public will. Upon this principle they must always rest, unless in an evil hour, when all the guarantees of freedom have been destroyed, we should return to the exploded theory that the rights of life, liberty and property are such only as are conceded by those who dominate the people.

My friends, I must apologize for detaining you so long. The subject of my remarks has always been one of interest to me. I never tire of reading about the great men who laid in this goodly land the foundations of free republican government. The history of our country is to be traced in the lives of men like Washington, the Adamses, Hamilton, Franklin, Wilson, Henry, Madison, Jefferson, Marshall, Mason, Lee and Ellsworth. The Government which they assisted in establishing is entitled to our affection and support. The lessons to be drawn from their lives are absolute fidelity to country and unflinching adherence to those principles which must be regarded if

government of the people, by the people and for the people is not to disappear.

May I not add that now more than at any period in our history is it necessary that we be faithful to sound principles of government and liberty regulated by law. Our country has reached a critical and momentous period, and the utmost vigilance and the most unselfish patriotism are demanded from every genuine American. The time has come when we must be Americans, through and through. We have no right to turn our backs upon public affairs, or to become indifferent to the fate of our institutions. Still less have we a right to enjoy the blessings and protection of this glorious land while continually saying and doing that which serves to strengthen the hands of the enemies of the Republic. Some people have a strange way in which to manifest their devotion to country. They rarely see in the operations of the Government anything to approve, and they never fail, when the Nation is having a dispute with other peoples, to say that our country is wrong and our adversaries right. And they do this even while our soldiers are in far distant lands endeavoring to maintain the rightful authority of the Nation. Some have not hesitated to say, in the most public manner, that those who from jungles ambush and shoot down our brave soldiers, are fighting the battles of liberty and doing only what they have a right to do, what their honor requires. These men are never happier than when attempting to persuade their fellow citizens that America is entering upon a dark and perilous future, and that all so far accomplished for the liberty and well being of the people will be lost if the Nation does not retrace its steps. For my own part, I believe that a destiny awaits America such as has never been vouchsafed to any people and that in the working out of that destiny, under the leadings of Providence, humanity everywhere will be lifted up, and power and tyranny compelled to recognize the fact that "God is no respecter of persons," and that He "hath

made of one blood all nations of men." Let us have an abiding faith that our country will never depart from the fundamental principles of right and justice or prove recreant to the high trusts committed to it for the benefit not alone of the American people but of all men everywhere on all the earth. We have had our days of gloom and darkness. We have had political storms that seemed to threaten the destruction of our institutions; and now and then we may have been somewhat faint-hearted as to our destiny and doubted whether all was well for the Great Republic. But those storms passed away, and we rejoice that our apprehensions were groundless. We may expect storms in the future; for nothing worth preserving has ever been achieved by individuals or by nations except through trials and sacrifices. Take courage in the belief that the American people are pure in heart, and have no desire or purpose other than to maintain the authority of the Nation wherever the flag floats, and to preserve unimpaired to the latest generation the free institutions given them by the fathers. Taught by the experience of the past we will stand at our respective posts of duty in the firm conviction that the kind Providence that has always watched over this People will preserve our heritage of constitutional liberty. We love the "rocks and rills," the "woods and templed hills" of this beautiful land, and come what may, we will give to America the best service of which we are capable. Let us feel about our country as did William Tell for his beloved land, when being overtaken in the mountains of Switzerland by a furious storm, he is represented as saying—

> "I thought of other lands, whose storms
> Are summer flaws to those of mine, and just
> Have wished me there: the thought that mine was *free*
> Has checked that wish; and I have raised my head,
> And cried in thraldom to that furious wind,
> 'Blow on: this is the land of Liberty!'"

Provost Harrison then introduced as the next speaker the Honorable SIR CHARLES ARTHUR ROE, who delivered the following address on The Constitutional Relations of England and her Dependencies.

According to the last official statistics published by the Colonial Office, the Colonial Empire of Great Britain—excluding Great Britain itself, and India—extended over some 9,750,000 of square miles, with an estimated population of between 23,000,000 and 24,000,000—the distribution of which is thus summarized :

Countries.	Area (Sq. Miles).	Population.
Europe	3,700	427,000
Asia	124,000	5,279,000
Africa	2,515,000	5,304,000
America	3,958,000	5,733,000
West Indies	12,000	1,514,000
Australasia	3,175,000	4,926,000
Total	9,797,700	23,283,000

If we add to these figures,

The United Kingdom	121,180	40,000,000
India	1,560,110	289,000,000

the total area and population under the Crown of England will be nearly 11,500,000 square miles, with some 350,000,000 of inhabitants.

It would be impossible to say, without a very elaborate examination of statistics, what proportion of the above area and population can really be regarded as British. But speaking roughly, we may say that Canada, Australasia, and a great part of the Cape of Good Hope are true British colonies in the sense that the bulk of the population is of British descent, with English law for their personal law, and that they may be expected to expand into great English-speaking nations. Of course a considerable number of persons of pure British descent are to be found in the other parts of the empire, but for purposes of enumeration they may be set off against the non-British in the British colonies proper. The latter

would, on this calculation, contain an area of some 7,000,000 or 7,500,000 square miles, and a population of about 12,000,000.

I will not attempt to give any detailed account of how this great empire has been built up. Part of it was acquired by conquest—or as the result of wars—but it is to the peaceful industry and enterprise and natural aptitude for colonization of her sons that England owes the greater part of her colonial empire. The foundation of this empire was laid by the acquisition of Newfoundland in 1583—and the last act of expansion was the arrangement with other European Powers of 1890 by which England acquired, or was acknowledged to have the right to acquire, some 2,500,000 out of 11,000,000 of square miles which is the estimated area of the whole of Africa.

The formal constitutional relations between England and her colonies and dependencies is the same for all in the sense that all form part of the dominions of the Crown, and are, in theory, governed by the Crown through the colonial secretary, the history of whose office is briefly this:

In July, 1660, the management of the affairs of the colonies was entrusted to a committee of the Privy Council, which, in the following December, became the Council of Foreign Plantations. This, in 1672, was united to the Council of Trade, and the joint body was styled the Council of Trade and Plantations. It was suppressed in 1677, but revived in 1695, and continued to exist down to 1782. In 1768, when the unfortunate quarrel between England and her American colonies had commenced, a secretary of state for the colonies was for the first time appointed. But both he and the council were abolished in 1782, when the quarrel ended in the complete loss of America, and the affairs of the colonies that remained to us were again made over to a committee of the Privy Council. This committee was formally consti-

tuted in 1786, and subsequently developed into what is now known as the Board of Trade, but after the outbreak of the French War in 1793, the committee ceased to have anything to do with colonial affairs. These were first made over to the Home and then to the War Office, and in 1801 a new office of secretary of state for war and the colonies was created. This arrangement continued till 1854, when the outbreak of the Crimean War, as well as the rapid growth of the Australian colonies necessitated a separation of the two offices. Since then the secretary of state for the colonies has had sole charge of their affairs.

But although the colonies and dependencies are alike in so far as they are, in theory, governed by the Crown through the colonial secretary, their real government presents every variety of constitutional relations, from complete dependence to practical independence. Apart from mere posts occupied for naval or military purposes, such as Gibraltar, Adeb, Perim, and Wai-o-Wai, which are under the Admiralty or War Office, or the government of India and "protectorates" or "spheres of influence," such as Uganda, Zanzibar, the Niger Coast, and the North Borneo Company, which are under the Foreign Office, there are under the Colonial Office forty distinct and, as regards each other, independent governments or administrations. Of these forty, eleven are what is called "self-governing colonies," *i. e.*, practically independent governments with parliaments of their own. The remaining twenty-nine may be grouped as follows:

I. Without any Legislative Council, that is, where the power of legislation is vested in the officer administering the government 4

These may be subdivided into—

(*a*) Where the Crown has reserved to itself the power of legislating by order in council, Malta, Labuan, St. Helena 3

(*b*) Where it has not reserved this power. Basutoland 1

II. With Legislative Councils nominated by the Crown 16

(*a*) In which the Crown has reserved the power of legislating by order in council 15

(*b*) Where it has not reserved this power . . . 1

III. With Legislative Councils, partly nominated by the Crown and partly elected 9

(*a*) In which the Crown has reserved the power of legislating by order in council 6

(*b*) In which it has not reserved the power . . 3

In the case of all these twenty-nine colonies or dependencies the control of the Crown is a real control. Where there is no Legislative Council the officer administering the government acts entirely under instructions received from Home. In the others the case is the same in all executive matters, and even where the Legislative Council contains the largest elected proportion of members, its powers of legislation are by no means complete, that is to say the colonial secretary, even when he does not require bills to be submitted to him for approval before they are introduced into council, would not hesitate to advise the Crown to veto any bill passed by the council which he considered objectionable.

But in the eleven "self-governing" colonies the case is very different. They, too, as I have said, are in theory and by their written constitutions, so far as they have any, governed by the Crown through the colonial secretary. The administration is carried on in the name of a governor appointed by the Crown, through ministers whom he may choose and dismiss at pleasure, and he may veto the most deliberate acts of the legislature. But what we now understand in England by the term "constitution" is not the letter of documents (of which there are hardly any) creating or defining the powers of any part of the body politic, but the general spirit in which custom, which has from time to time changed, and will continue to change,

expects each different part to exercise its powers. Lord Macaulay, in the opening chapter of his History of England, says with reference to the constitution:

"The change, great as it is, which her (England's) polity has undergone during the last six centuries has been the effect of gradual development, not of demolition and reconstruction. The present constitution of our country is to the constitution under which she flourished 500 years ago, what the tree is to the sapling, what the man is to the boy. The alteration has been great, yet there never was a moment at which the chief part of what existed was not old. A polity thus formed must abound in anomalies, but for the evils arising from mere anomalies we have ample compensation. Other societies possess written constitutions more symmetrical. But no other society has yet succeeded in uniting revolution with prescription, progress with stability, the energy of youth with the majesty of immemorial antiquity."

Thus it is that whilst the constitution of England at the present day is practically a democracy, in the sense that the will of the people as expressed through a House of Commons elected on a very broad suffrage, is really the supreme power in the state, the sovereign retains not only the title, but also, in theory, the powers of the Tudor and Stuart monarchs, and the House of Lords has at least the same power as the House of Commons. Yet if either the Crown or the House of Lords were to attempt to exercise their powers in opposition to the House of Commons their conduct would be denounced as "unconstitutional," not because it would be a breach of letter of the constitution, but because it has become a recognized principle that the Crown can only act on the advice of responsible ministers and that the House of Lords, though it may and should reject hastily considered measures, or measures as to the expediency of which the opinion of the nation is divided, is not justified in opposing a deliberate and definite expression of the national will.

A similar spirit pervades the constitution of the self-governing colonies with reference both to their internal government and their relation to the mother country. I will not attempt to trace the history of these colonies, or of any of them, in detail, or to explain the technicalities of their existing constitutions. Speaking broadly, it is as true of them as of the English constitution, that the present state of things is the result of natural development. In its early days the head of a colony must have full powers, and these must be derived from the Crown, that is the responsible government of the mother country, and be exercised under the control of the Crown. When the colony begins to gain strength, its leading men may be selected to assist the governor with their advice and share his powers, and the control of the Crown will be relaxed. As the strength of the colony increases, the nominated council may give place to an elected one, and the control of the Crown reduced to a minimum. This is the stage which has been reached by the "self governing colonies," and, as I have said, it has been reached gradually, not by blindly adopting a particular form of government on account of its theoretical beauty, but by from time to time applying the form most suitable to the circumstances of each particular case. There is a great danger in political (of course I do not use the word in its party sense) as well as in other matters—not excluding even the law, of following theories instead of attending to the facts. This danger is particularly great when a country whose government is based on a democratic, or popular, foundation is dealing with the affairs of a colony or dependency. Because certain arrangements, such as the practical vesting of supreme power in a popular assembly, trial by jury, liberty of the press, work well, or are a necessity in the mother country it is assumed that they are great and eternal truths which will work equally well in all communities, and that they must be applied regardless of consequences, even though popular elections may result in a war of races, or chaos,

trial by jury in gross miscarriage of justice, and liberty of the press, in anarchy. The true democratic or popular principle is, I believe, this, that all governments exist, or should exist, for the good of the governed, and that the best form of government for every community is the one which is under the particular condition of each case most calculated to promote this good. The relations between a mother country and her colonies and dependencies resemble very closely those between a parent and child. If it is incumbent on the parent to protect and control a child in its infancy it is equally incumbent on him to recognize the fact that the child grows into the man, and that as he does so, advice must take the place of command, and at last even advice must not be obtruded unasked. I do not wish to refer to any of the details of what I have already spoken of as the unfortunate quarrel between England and her American colonies, but I think that it may be said with truth that the chief cause of it was England's failure to recognize the fact that her child had grown up. She has learned a lesson from the past, and whatever may be the formal constitutional relations between England and her grown-up colonies, the real tie between them is that of family affection. The value of such a tie is as great in public as in private life, and it was never more strongly shown than at the present moment, when from all parts of the empire England's children are rallying to her side, ready to spend their money and their lives in her defence, each colony vying with the others as to which can do most for the common mother, and best serve their much-loved Queen.

To the very brief sketch which I have attempted to give of the constitutional relations between England and her colonies, I must add a few words regarding these relations between her and India. India is not, and never can be a colony, that is, a country occupied to any appreciable extent by settlers of British descent. Its organization, social and political, is entirely its own, though its

government is completely controlled by England. It is the greatest of England's "dependencies," and a most perfect illustration of the true meaning of the term. Although India is often described as having been conquered, or acquired by the sword, the description is very inaccurate. The real source of the acquisition was, as in the case of the colonies—the peaceful industry and enterprise of England's own children. The foundation of the empire was a curious one—it was due to a rise in the price of pepper. The Dutch, who had a monopoly of the Eastern trade, raised the price of all spices to such an extent that, in 1600, a few merchants of the city of London determined to send out one or two ships of their own. Their enterprise was successful; it was repeated and developed into a regular trade. The merchants became a chartered company with a monopoly, and established depots or factories. Bombay came to England as part of the dowry of the Queen of Charles II. Madras was founded in 1664, and Calcutta in 1698. The factories grew into possessions and their guards into a powerful army. Clive made these possessions a power, and Warren Hastings made this power an empire, of which he was made governor-general in 1774. It was Pitt's Regulating Act of that year which first established any real constitutional relations between England and India. This was done by constituting England a committee of the East Indian Company's directors, presided over by a cabinet minister, called the "president of the board of control," for the management of the "political" affairs of the company, by associating with the governor-general members of council appointed from home, and by establishing at each presidency town, that is, at Calcutta, Madras and Bombay, a supreme court whose judges were English barristers. This arrangement lasted till 1860, when the East India Company ceased to exist, and the Crown assumed the direct government of India.

But the organization of the new government was framed, in the main, on the lines of the old one. In England a secretary of state took the place of the old "president of the board of control," and his council, varying in number from ten to fifteen, and composed of persons, official and non-official, of the greatest Indian experience, took the place of the old company's committee. The secretary of state cannot impose any burden on the finances of India without the consent of his council, and he is supposed to consult it and be guided by its advice in all other matters. But he may, and he not infrequently does, act independently of his council, or disregard its advice, not, I fear, always to the benefit of India.

In India the governor-general became also viceroy, but his powers and those of his executive council, which consists of a legal member and a financial member, usually sent out from England, and a military member, and two civilians selected from the civil and military service in India, remained much as before. Each member of council has special charge of some department of the government, and, like a cabinet minister in other countries, disposes of all minor matters connected with it. All matters of importance are dealt with by the whole council, but the viceroy is not bound by a vote of the majority, nor would a member who was outvoted think it necessary to resign. He would merely record a minute setting forth his reasons for dissenting from the policy adopted. No doubt the original intention of the framers of this constitution was that the opinion of the members of the council should be given independently by them as Indian experts, that the viceroy should also form an independent judgment after giving due weight to this opinion, and that the secretary of state in England should only overrule the viceroy for very special reasons. I would not imply that the members of the council have ceased to give independent opinions, and they have most carefully kept themselves free from English political parties. But the

course of events in India and its vicinity, which has made many Indian questions English or European questions, and more especially the telegraphic connection between India and England, has tended to reduce the government of India to a more subordinate position, and to make its highest officers not men left to act independently with a possibility of having their action set aside, but mere officials appointed to carry out orders or a policy resolved on at home.

A very erroneous idea prevails about the government of India and its officers in matters of internal administration. It is very generally supposed that the executive government and its officials down even to its district officers can issue what orders they please, and that these orders have the force of law. Nothing can be further from the truth. No doubt this was the state of things under the native governments which preceded the British, and it continues, with certain reservations, in the native states at the present day. But in British India the powers of the government and its officers were created solely by the written law, and are strictly limited by it. There is no royal prerogative by common law, and no inherent power in any class or any individual to rule over others. The whole population is on a footing of the most perfect legal equality, and if any one issues an order to another he must show that the power to do so was conferred on him by a certain section of a certain act, either of parliament or the Indian legislature, and punishment for disobedience of the order could only be inflicted by a regular court of law, after a proper trial. If the viceroy himself were to be personally assaulted by a common coolie, the latter would not, as in most Eastern countries, be led off to instant execution, he would have to be prosecuted before a magistrate, and could only, on conviction, receive the sentence prescribed by law.

No doubt in its inception the British Government did succeed to the powers of the government it displaced, and

its executive orders were regarded as laws. But as soon as Pitt's Act of 1774 gave a definite shape to the constitution of India, the distinction was drawn between mere executive orders, and regulations by the governor-general in council which were drawn up in the form of statutes and were intended to be observed as laws. In 1833 a Legislative Council, consisting of the viceroy and his executive council, with the addition of other members, official and non-official, nominated by him, was created and the power of legislation was transferred to it alone. Lord Macaulay went out to India as its first legal member of council, and the India Penal Code which, though it was not formally passed till 1860, was drafted by him, would even if he had written nothing else, remain forever a monument of his genius. The council was enlarged in 1861, and it has been further enlarged of late years, chiefly by the addition of non-official members, a few of whom are elected, or rather nominated to the viceroy for approval, by bodies such as the Calcutta Chamber of Commerce, and members have been given a right of interpellation. Some of these changes can hardly be regarded as improvements, and they were probably adopted merely in order to avoid still more mischievous ones. In its proper sphere, that is as a machine for passing laws, the council has done admirable work. In addition to the Penal Code to which I have referred, it has given us most complete codes of Civil and Criminal Procedure, and a "Contract Act" and an "Evidence Act," which embody the cream of English and American law. The ordinary process of legislation in India is this: Bills are introduced into council, not to satisfy some political cry or "fad," but to meet some real want which has been pressed on the notice of the government. On their introduction they are not only published in the *Government Gazette* and leading newspapers, English and vernacular, but they are also specially sent for opinion to those persons, official and non-official, Europeans and

natives, who are likely to have any opinion worth giving. The opinions received are carefully considered by a select committee of the council, who then report the bill to the council generally with their recommendations. It is then debated in the usual way and passed into law or rejected, as the case may be. To attempt to turn this body into a parliament or anything resembling a parliament, will considerably impair its efficiency as a machine for legislation as to any general establishment of parliamentary institutions in India. I can only repeat what I have already said as to the danger of applying theories without regard to facts. The natives of India who form themselves into congresses and pass resolutions, in no sense represent the people of India or express their true wants. They merely represent a somewhat numerous body of persons who have received an English education at government expense, and who, on failing to obtain government employment, think that they will at least obtain notoriety by going into opposition. Their mode of thought and speech, and even of their sedition, when they are seditious, is not that of India but of an imitation Europe.

Between the Legislative Council and England the constitutional relation is that the council has full power to legislate on all matters within the limits of British India, and the Crown, acting through the secretary of state, has merely the power of veto. It was intended that all members of the council, official as well as non-official, should deal with all matters in a perfectly independent spirit, and that the power of veto should only be exercised in extreme cases. But, as in executive matters, there has been a tendency on the part of the secretary of state to encroach on the powers of the government of India. Under the cover of the power of the veto, he requires the more important measures of government to be submitted to him for approval before the bills to give effect to them are introduced into the council, and its official members

are expected, though not to the same extent as in England, to support the bills that may thus be introduced.

Besides the power of control over the making of laws which I have endeavored to explain in the above remarks, there exists for all the colonies, self-governing or dependent, and for India, a very real control over the administration of the law, which is exercised by the Judicial Committee of the Privy Council. This body is the final court of appeal for all parts of the British Dominions outside the United Kingdom. Cases come before it from all quarters of the globe, and it has to act as the final interpreter of almost every known system of law, English, Colonial, Hindu, and Mohammedan, and even the still more intricate systems of customary or tribal law, by which most of the native races are governed. Yet, strange to say, this supreme court is not, strictly speaking, a court at all. Its jurisdiction arises simply out of the right of every British subject, who believes that a wrong has been done him, to petition his sovereign personally for redress. Of course there are limits imposed by the various legislatures as to the nature and value of the cases in which an appeal to Her Majesty in council is allowed, but when it is allowed it takes the form of a petition to the sovereign, which is referred by her to certain select members of her Privy Council for consideration. They consider it not as a bench of judges sitting in state, but as a small group of elderly gentlemen in plain clothes, seated at the end of an office table, and the result of their deliberations is recorded, not in the form of a decree of a court but merely as "humble advice" to Her Majesty to take certain action. It is needless to say that Her Majesty always does act on the advice given, but the whole procedure is a curious illustration of the affection of the English constitution, for old forms long after the substance has completely changed.

In concluding this brief sketch of the constitutional relations between England and her colonial empire, I cannot, in the presence of an American audience, refrain from

giving expression to the thought, which must often occur to most Englishmen, what would that empire have been if you had continued to form part of it? In its mere external form it would have been an empire extending over more than 15,000,000 of square miles, and containing in addition to nearly 300,000,000 British subjects of other races, a population of 131,000,000 of English-speaking freemen, and its internal strength would have been greater even than its form. I have said that the chief cause of our losing you was that England failed to recognize when her child was grown up. It may be that the child was so strong and vigorous, and his future in life so great, that the most judicious treatment would have failed to permanently retain him even in a nominal dependence on his mother. If this is so, if we must have parted company some day, at any rate we need not have parted in anger. But time softens the bitterness of even the most serious family quarrels, and I think it may be truly said that in ours all sense of bitterness passed away a hundred years ago, and that the lesser feelings of jealousy and estrangement have gone also. Year by year the two great kindred nations are drawing closer and closer together, they are learning to understand one another better, to rejoice with each other in prosperity, to sympathize with each other in trouble, to recognize the truth of the old saying that "blood is thicker than water," and to feel that we are not merely friends with interests and feelings in common, but are truly members of one family. When we come to you we receive even more than a family welcome, and when you come to us it is not to see a strange country, but to revisit your old home. Many of you, I am glad to say, visit Oxford in the course of your tours, and I have no doubt that, as you gaze on the old colleges and recall their founders and benefactors and the history of the times in which they lived, it is a pleasure to you to feel that this history is your history, that these men were your ancestors, and that you have as good a right to claim admission to

the colleges as founder's kin as any inhabitant of the British Isles.

Owing to the lateness of the hour the address of Mr. Gerard B. Finch, with which the exercises were to have concluded, was, with his consent, transferred to the next day's program; and, at the close of Sir Charles Roe's address, the guests of the University repaired to the rooms of the University Club to attend a reception by the club to Mr. Justice Harlan, Sir Charles Arthur Roe, Mr. Gerard B. Finch and Mr. James Barr Ames.

UNIVERSITY CLUB,

1510 Walnut Street.

At the request of

Mr Harrison

the privileges of the Club House are

extended to you for ten days.

William D Neilson

Secretary

H. E. Dr Wu Ting-fang

Philadelphia 21 Feby 1900

Second Day.

On Thursday, February 22nd, annually celebrated by the University of Pennsylvania as "University Day," the students of all departments led by the Municipal Band marched from the campus to the Academy of Music to participate in the exercises of the day. The following alumni and class presidents acted as marshals and aids:

Chief Marshal.

JUDGE EDWIN A. JAGGARD, '82 L.

Assistant Marshals.

Thomas Leaming, '76 C.
Ludovic C. Cleeman, '59 C.
Robert Patton Lisle, '62 C.
Cornelius Stevenson, '63 C.
Nicholas Henry Thouron, '64 C.
Sidney W. Keith, '76 C.
Thomas Robins, '77 C.
Lewis Neilson, '81 C.
Charles Edward Ingersoll, '82 C.
John Lambert, Jr., '83 C.
Thomas Lynch Montgomery, '84 C.
William Bowen Boulton, '79 C.
William Heyward Drayton, Jr., '81 C.
Lewis H. Taylor, '80 M.
William E. Casselberry, '79 M.
John L. Wentz, '82 M.
Howard Gerald Provost, '84 D.
Allen J. Smith, '86 M.
Ernest Wende, '84 M.
Cecil Clay, '59 C.
Robert Carmer Hill, '89 C.
Thomas Turnbull, Jr., '87 M.
Hugh Walker Ogden, '90 C.

Aides.

John Sebastian Conway, '00 C.
Robert Holmes Page, '02 C.
John Henry Outland, '00 M.
Benjamin Franklin Roller, '02 M.
Charles Louis McKeehan, '00 L.
Joseph Robert Wilson, '02 L.
George Eugene Davis, '01 D.
Hulbert Young, '00 V.
Samuel Crowther, Jr., '01 C.
William Gilfillan Gardiner, '03 C.
Josiah Calvin McCracken, '01 M.
Charles Hay Spayd, '03 M.
Walter Coggeshall Janney, '01 L.
Clifton Ernest Lord, '00 D.
William George Hanrahan, '02 D.
Charles Louis Colton, '01 V.
Samuel Burrows, '02 V.

Simultaneously with the arrival of the student body at the Academy, at eleven o'clock, the Provost, with the orator of the day, the representatives of Universities, and the Trustees and Faculties of the University of Pennsylvania in academic dress, proceeded to the stage.

The exercises were opened with prayer by the Right Reverend Ozi W. Whitaker, after which the audience, led by the band, joined in singing "America."

The degree of Doctor of Laws, *honoris causa*, was then conferred in University Council on the following named gentlemen:

James Barr Ames, Dean of the Faculty of Law of Harvard University.

Gerard Brown Finch, representative of Cambridge University, England.

Sir Charles Arthur Roe, representative of Oxford University, England.

John Marshall Harlan, Senior Associate Justice of the Supreme Court of the United States.

Oscar Solomon Straus, United States Minister to Turkey.

Wu Ting-Fang, Chinese Minister to the United States.

Porfirio Diaz, President of Mexico (represented by Senor Manuel de Aspiroz, Mexican Ambassador to the United States.)

The credentials of the representatives of the Universities of Oxford and Cambridge were then read by them.*

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* Facsimiles of these credentials appear opposite.

Address
to the
Law Faculty
of the
University of Pennsylvania
by the
Board of the Faculty of Law
of the
University of Oxford.

The Board of the Faculty of Law of the University of Oxford begs to offer its hearty congratulations to the Law Faculty of the University of Pennsylvania on the auspicious occasion of the dedication of its new Law School Building.

As representing the oldest Law School of the English Speaking race – for Vacarius "in Oxonefordia legem docuit" – we cannot be indifferent to the prosperity of legal studies in your distinguished . . . University. On the free and inspiring air of your great Republic it is most meet that such . . . studies should grow and flourish.

We are well aware of the many and important contributions that have been made by American . . . lawyers during the last century, both in the Courts and in the Schools, towards the development of legal learning and juridical science. These contributions have been very valuable to us not only in relation to our Common Law in all its departments, but also as expounding and developing . . International Law, that most beneficent offspring of the Modern World.

That you will in your new surroundings uphold the traditions of the great judges and teachers of your country – of Story, Kent, Marshall, Parsons, Field, and others well known to Fame is the earnest hope and belief of your brethren in this University. On this hope and this belief we . . . cordially bid you God Speed, and for your new building we would express the wish, adapting the language of the Poet,

– ut vobis haec habitatio
Bona, fausta, felix, fortunataque Eveniat!

Henry Goudy, D.C.L. Regius Professor of Civil Law
A. V. Dicey, B.C.L. Vinerian Professor of English Law
T. E. Holland, D.C.L. Chichele Professor of International Law and Diplomacy.
Frederick Pollock, M.A., Hon. LL.D. Harvard, Corpus Professor of Jurisprudence.
Edward Jenks, M.A. Reader in English Law.
William R. Anson, D.C.L. Warden of Alle Souls College
A. A. Prankard D.C.L.
[illegible] Moyle [illegible]
A. T. Carter D.C.L.
[illegible] D.C.L.
[illegible] D.C.L.

Penn[illegible] Universitati

S. P. D.

Universitas Cantabrigiensis

Vestris ex [illegible]

pacis a [illegible] plus quam ducentos [illegible] Britannia profe[illegible] et ex ipso [illegible] conditoris nomine feliciter nominata, primum Academiam abhinc [illegible] quinquaginta civis vestri celeberrimi consilio conditam [illegible] quadraginta annis [illegible]

[illegible] domicilium dedicatum [illegible] iurisconsultorum nominibus [illegible] indignum, qui vestris ex umbraculis egressi, rei publicae vestrae maximae [illegible] annos exierunt. Laetamur [illegible] nostros [illegible] et Britanniam nostram tot animi fraterni documenta esse data, quod nullis aliis libentius confitemur, quam vobismet ipsis, qui in urbe fraterno ex amore olim nominata vitae vestrae velut tabernaculum posuistis. Et nos Academi nostri inter nemora iurisprudentiae studiis quasi templum novum consecrare volumus; eo libentius igitur, per legatum nostrum, quem benevolentiae vestrae commendamus, litteris his datis, vobis omnibus ob inceptum idem ad exitum prosperum perductum ex animo gratulamur. Valete.

Datum Cantabrigiae
mensis Decembris die xiv°
A. S. MDCCCXCIX

The following letter from Frederic William Maitland, LL.D., Downing Professor of the Laws of England in the University of Cambridge, was also read:

Santa Brigida,
Gran Canaria
10 Jan. 1900.

Dear Sir,

I am glad to hear that at the opening of your new Law School in Philadelphia the University of Cambridge will be represented. I learn that Mr. Finch is to be its representative and know that he will perform his happy task willingly and well. As, however, you did me the high honour of inviting me to be present and I am now in exile far from Cambridge, you will perhaps suffer me to say, in no official capacity but from the bottom of my heart, that every good wish that I can frame for the welfare and prosperity of your Law School is wished in confident assurance that it will and must be fulfilled.

There was perhaps a time when a man was told if he said that our Common Law was capable

of being taught and was worth teaching: as capable of being taught and as worth teaching as were those laws of Roman emperors and those decrees of Roman pontiffs that men were studying at Bologna. But John Wycliffe was a bold man and he said it in the fourteenth century. And the Common Law was taught systematically and academically. This I am convinced will someday stand out as a distinctive fact of primary importance in the history of our race. But for the 'readings' and the 'moots' in the Inns of Court, our Common Law would have shared the fate of German Law, and the Jurisprudence that men carried from England to America and then from Atlantic to Pacific would have been

the Jurisprudence of the Italian commentators. And now this system that was saved by being taught reigns over a vast part of the habitable globe, and indeed is beyond all question the greatest system of law that the world has ever seen. You in America have not lost and are not going to lose your faith in the power of the Law School and you know that the study of our law will flourish best in the atmosphere which suits all other studies, the atmosphere of a learned university

Let me end with the words of the great schoolman and the great heresiarch. If I alter one word, if for 'Anglicanae' I write 'Americanae', the change will not be great and Wycliffe's spirit will

forgive it. 'Sed non credo quod plus viget in Romana civilitate subtilitas rationis sive iusticiae quam in civilitate ~~Anglicana~~ Americana'

Believe me,

Yours very faithfully

F. W. Maitland.

Charles C. Harrison

Provost

Univ. of Pennsylvania.

Provost Harrison, introducing the orator of the day, His Excellency, WU TING-FANG, Envoy Extraordinary and Minister Plenipotentiary from China to the United States, then spoke as follows:

The University of Pennsylvania has now conferred its highest honorary degree upon learned and distinguished representatives of many nations, differing in their customs, their manners, their arts and modes of life, in their jurisprudence and in their religions. Nations in infancy and in age; Saxon, Latin, Mongolian and our composite American; living under the civil and the common law; accepting the teachings of Confucius and Mencius and the Holy Scriptures of Christians.

The oldest has come to meet with the youngest at the University gates—our open doors—with that sympathy of love of country and love of learning which may give expression to mutual respect, and to a prayer for peace to men, of good will, upon this University Day of ours—the birthday of Washington.

Upon the men of our own kin, upon those whom Oxford and Cambridge have sent across the sea—upon those ancient universities and all they represent—we have placed the red and blue ribbon, our own symbol—in token of a fellowship which we believe must last as the three universities themselves shall last. If the imperial German unity which now exists is the fruit of a unity of German thought, created by her university scholars, we, here and in our mother country, may have greater motive to greater effort in our universities for like concord of educated men. To them and their sons and their influence are due all that make a nation free—the enfranchisement of the people, the promotion of elementary education, the reform of prisons, the abolition of slavery. To England, to Oxford and Cambridge, we return to-day our measure full of academic and loyal tribute. The millennium of her great King Alfred, at the royal city of Winchester, will not be forgotten by us of this University.

To the President of the Republic of Mexico, represented in the person of his Ambassador, the University has given its highest honorary degree for the public service he has rendered during many years to his own country, and, in consequence, to the family of nations. Under that firm hand, learning has been fostered, public and private enterprises encouraged, order maintained where disorder ruled; a nation growing daily in public respect; science and letters and industry pursuing their ways in paths of peace, because thought and opinion have been released from the fetters of many generations. Younger than we in such a national history, Mexico has a past whose records refuse to be interpreted, and an ancient architecture, the wonder and despair of the present.

And what shall I say of our own countrymen? We have sought to honor them for the things which they have done. The scales of justice have been held with no unsteady hand; luminous and lustrous has been the administration of the law, and patient and calm the confidence of the people in its wisdom. "Justice is the great interest of man on earth. It is the ligament which holds civilized beings and civilized nations together. Wherever her temple stands, and so long as it is duly honored, there is a foundation for social security, general happiness and the improvement and progress of our race." So Webster said.

To no less claim of merit has the teacher of its science and art his rightful due, than the judicial interpreter of the law. While we may claim the earliest effort and purpose, another university, the senior amidst us all in these United States, has the honor of being the first to establish a continuing School of Law. And that school has had two heads, so renowned for their success in purpose and administration that England comes to Harvard University for guidance in the teaching of the law. That school has been the Mecca of students of the law, the fruitful mother of bench and bar, imposing new standards

upon those for which there were now nor time nor place. The elder Dean had been already remembered well by his own University after his years of service. The younger Dean we have welcomed here to-day, in recognition of his undying work—and we trust to welcome him in the future, as the two schools shall draw like two magnets, with increasing force of merit.

In proper recognition of the influence so well known and so well received at the Ottoman Court, we have been glad to-day to welcome, quick upon his return to his native shores, the Minister of the United States at Constantinople. So clear in his office has he been, and so acceptable in his ways, that other nations have not hesitated to ask for the influence his intellect and personality had won. And we, too, but return in tardy fashion a debt of recognition, for we have never failed a friend at all times during the years of this University's great work between the Tigris and the Euphrates.

Your Excellency, we welcome you not only as the orator of the day, but as illustrative of the highest development of Oriental civilization, come in peaceful relations, through many years, with the influence of the best culture which Europe and America may offer.

What an apt occasion for comparison and reflection! We call our city venerable, and our University venerable, at whose bidding so many have come to-day. It was yesterday that we dedicated a noble university building to a noble science. It is but as of yesterday that Washington here received his honorary degree, and here dedicated in its simpler home the teaching of the law by James Wilson. A score of years back of the birthday of the senior living trustee of this University spans that whole bridge of time. But a few years more remote and the place where this great city stands was a town site. No one lived north or west of the "Old Building" at Fourth and Arch streets, whose convenience might be regarded, so that the clock to have been established in the frame

tower was to have had but two dials—to south and east.

China has lived her 4,000 years, patient, pastoral, immobile; seeking, hitherto, no answer to the question, Who is my neighbor; wishing, indeed, until now, not to be asked that question. The United States, restless, inquisitive, impatient, progressive, achieving results in a century at which the observer marvels, but of which ourselves take not the time to think, seeks admission to the Celestial Kingdom, and

> "Upon the very border stand
> Of that fair promised land."

We know that our rigorous laws, severely interpreted, give us slight cause for favor or friendship. But we have asked you to address us, at this University, with the hope of instruction as to ways in which these two nations may come into contact and not to conflict.

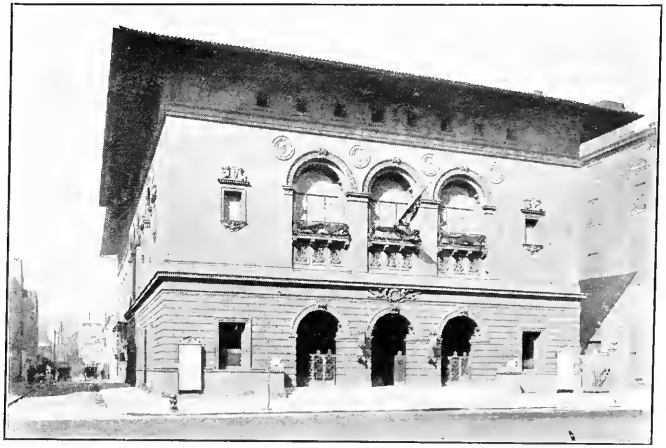
When the best brain of this country is governed by the enlightenment of the universities, reform, conservative and yet progressive, is inevitable. And a public sentiment may be created by the universities even more enlightened, because more courageous than their own.

For your learning, and for your public and national services, we have clothed you, then, with our highest academic honors and with symbolic colors—the red and the blue—under which our University strives to realize the highest purposes. We feel that, loyal to your native land, you will, henceforth, be a worthy son of Pennsylvania.

And so we greet you to-day with the prayer that the colors of our own country, the red and the blue and the white, may typify in the first two the policies of justice and enlightenment, and in the last

> "The white flower of a blameless life,"

in all our national measures.



HORTICULTURAL HALL.

BUILDINGS OF THE HISTORICAL SOCIETY OF PENNSYLVANIA.

AMERICAN ACADEMY OF MUSIC.

UNIVERSITY CLUB.

His Excellency, the Chinese Minister, spoke on "The Proper Relations of the United States to the Orient," as follows:

Two years ago to-day the President of the United States delivered the oration before you, and last year one of the most prominent and learned scholars, the Hon. Seth Low, was your orator. To succeed these eminent men in this distinguished role is indeed a great honor; but when it is considered that this is the first time the privilege of addressing you on Washington's birthday has been accorded to a foreigner, you will understand how proud and grateful I feel on this occasion. I am inclined to take this high compliment not as a recognition of any individual merit I may possess, but as a striking example of the friendly feeling shown to the country which I have the honor to represent. To the spirit of expansion also, unless I am mistaken, which pervades the whole country, I attribute this departure from the usual custom; and as the United States has extended its territory to the Far East, it is but natural that a great and leading University like this should catch the contagion, and invite the representative of a neighboring country to undertake this pleasant and honorable task. The custom of observing Washington's birthday by this University as "University Day" is a praiseworthy one. For the last two thousand years, the birthday of Confucius, the great sage of China, has been every year observed in all the colleges of China; and as your nation is young and your people are patriotic, it is fitting that you should follow the example of an older nation by keeping green the memory of "The Father of His Country." It is particularly fitting for the University of Pennsylvania, in whose city Washington established the Federal government and became the first president of the nation, to commemorate every year his birthday.

The observance of the anniversary serves to recall to the mind of the people the noble character of the hero, to

hold up his life as an inspiration to the nation, and to infuse the whole country with the spirit of patriotism.

The name of George Washington is by no means unknown in China. To every student of modern history his life and achievements are familiar. To be able to combine thirteen small states into a harmonious union for the purpose of carrying on a long and costly war with a powerful country, to establish a stable government, and to found a new nation on a firm basis,—all this excites the admiration of my countrymen who have read the history of the United States. He was not only a great soldier but a great statesman also, for he laid down the sound principles of government which might serve as guides for other nations as well as for this republic. It may seem at first sight, paradoxical to say that we Chinese hold Washington in higher estimation for what he did not do, than for what he actually did, for his country. History has given us innumerable examples of great warriors, eminent statesmen, devoted patriots whom we regard with wonder and respect. Such are Cæsar, Cromwell, Napoleon, and many others that may be named. But where can we find another instance of entire subordination of personal ambition to the public welfare? The love of power which is innate to every man seems in his case to have been controlled by a higher sense of public duty. We know that he carried the war of American independence to a successful issue, accepted the unanimous call of a grateful nation to be its chief magistrate, and after holding that high position just long enough to put the Ship of State in a proper and good condition, he voluntarily stepped down from the pinnacle of power without the least regret. He might have taken a different course. He might have remained in power to the end of his days. The very fact that he was master of his ambition, and not its slave, stamps him as a truly great man. The only historical characters I can think of who resemble Washington in this respect are Yao and Shun.

These two great monarchs reigned in China from B. C. 2357 to 2206, and during their respective reigns the people enjoyed perfect peace and prosperity. The virtues and benevolent sway of these two celebrated rulers have been held to this day in China as models for succeeding occupants of the throne, as immortalizing the following proverb: "Yao's benevolence was as universal as heaven, and Shun's virtue, as resplendent as the sun." It was the golden age of China; and after the lapse of four thousand years their memory is still held in great veneration by their grateful countrymen. The noble character of these two sovereigns, as was the case with Washington, was conspicuous by a zealous devotion to the welfare of their people, and by a sacrifice of their self-interest and ambition. Each left his throne, not to his sons but to the worthiest; or in other words, the choice of the people. The principle of selection thus established was only revived by Washington, and has since been followed in this country.

Though it is not more than 125 years ago when Washington founded this young republic with thirteen states, she has since so enlarged her boundaries that the country is now composed of forty-five states and half-a-dozen territories. Through the logical course of recent events, she has acquired territory far beyond this continent, and become practically a neighbor of China. It gives me the greatest pleasure to say that the relations between the two countries are the most friendly and cordial; and I venture to express with confidence the hope that the fact of the United States' acquiring the Philippines will not only not disturb those amicable relations, but will have the effect of yet cementing them more friendly and closely. With such intelligent people as those of the United States, whose policy as voiced the other day by the Postmaster-General in his speech in New York, is not territorial expansion, but only the expansion of trade and commerce, the relations of this country with China, and indeed with

L. of C.

all the other nations in Asia, cannot be otherwise than cordial. This being the case, it is naturally expected that I should express my views as to how the best relations can be maintained. I do this willingly, feeling sure that what I shall say will be received in the same friendly spirit in which it is given. The first advice I would venture to offer is the importance of a clear understanding of the situation. Whether in diplomatic or commercial business, it is equally essential. It should always be borne in mind that the customs, manners, language, mode of education and way of thinking in Asia, are not similar to those in the West: consequently the Orientals think and act in ways entirely different from their brethren in the West under similar circumstances. To judge the action of an Asiatic by an American or European standard is a grievous mistake. I have seen costly litigations carried on for months in law courts between Chinese and Europeans simply through misunderstanding. I have seen bloody wars arise from the same cause. Each nation in those cases felt that it had been insulted, and considered the incident a *casus belli*. If the points of difference had been properly explained, and if what each nation imagined to be an insult could have been clear that no such thing was intended, the matters in dispute could have been amicably arranged, and no war would have ensued. But each nation was stubborn and tenacious in its own opinion, each judging the other from its own standpoint. One of the first requisites towards maintaining proper relations with the Orientals, therefore, is to understand their ideas, and to judge them not by your standard, but by theirs. This is as much applicable to commercial and social intercourse as to diplomatic and international affairs. Let me give a common illustration. In China when a gentleman meets another for the first time, it is usual for both to ask each other's age, and other personal questions. It would be a mistake to regard such conduct as rude and insulting, as would be the

case in this country. The asking of such questions shows the interest of the questioner in his new acquaintance, and is done with the best of intentions; therefore, it should be considered no more an insult than an inquiry after one's health. A perfectly innocent action can be easily misinterpreted to be a wrongful act. To do justice to an Oriental, you should not judge his action by what you would naturally think of it, but ascertain his motive for the act, and judge him by his own standard. This rule cannot be too often emphasized in your intercourse with the people in the Far East, as by its observance many disagreeable contretemps and misunderstandings may be avoided.

I must acknowledge that your diplomatic and consular officers in China have thus far acquitted themselves well, considering the disadvantageous position in which they are placed. Most of the European Governments send young men to the East to learn the language and study the customs of the country. After a residence of two or three years, when they prove themselves proficient, after passing a strict examination, they are then placed in responsible positions as student interpreters, consular assistants, etc. Merit is rewarded by promotion. Thus those governments have competent men specially fitted for service in the Orient. It may not be unwise for your government to adopt a similar system. It gives me much pleasure to hear that this University, ever foremost in all educational movements, has announced a plan for a special school of commercial and diplomatic training, intended to qualify students for business employment or public service in the East. This is a step in the right direction. I trust that in the near future all Americans who go to the East, especially to my country, whether in commercial pursuits, or in diplomatic or consular service, will have had training in that school, or any other school of a similar standing. While upon this topic, I may be permitted to make a suggestion

on a kindred subject. I think that if a Chair of the Chinese Language and Literature should be established, it would prove very useful, not only in teaching the Chinese language to those students wishing to learn, but it might be the means of diffusing information on all matters relating to China. I have heard that both the Universities of Yale and Harvard had such a professorship in Chinese some years ago, but as there were very few students, the vacancy in each case was not filled after the death of the first holder. But the times have changed. In view of your rapidly increasing commerce and trade with China, and in view of your important political position there, the question is whether it is not worth your while to found a Chair of the Chinese Language and Literature in this University. I throw out the suggestion for the consideration of the Provost and officers of this great institution.

Constant intercourse between the East and the West of necessity requires a common medium of communication. The story of Babel has a moral to it. It was the confusion of tongues that scattered the people of the earth toward the four winds. Reverse the process, and you will bring the nations of the world together. In the days of the Cohungs, when the millions of the people of the Chinese Empire were brought into contact with the outer world only at a few points, and when buying and selling furnished the only opportunity for an interchange of ideas, it was found imperative that some means should be devised for making the wants of each side known to the other. Thus the jargon known as "pigeon English" (that is, business English) came into extensive use. This is "neither fish, flesh nor fowl," as far as extending among languages goes. But it has served a useful purpose, in that it has enabled the Chinese and the foreigner to understand each other sufficiently to do such business as has brought them together for the last fifty years. The expansion of commerce at the present day, however,

demands a better and more accurate vehicle of expression. Transactions involving thousands of dollars cannot be left to conjecture, but the rights and obligations of the parties must be defined in terms that convey a clear and well-understood meaning. In all the ports and important centres of the East the English language seems to hold a position in the school and in the counting-house such as no other language can claim. It is spoken in the streets of Shanghai as well as in those of Hong Kong. It is taught in the schools of Yokohama as well as those of Singapore. Chinese, Japanese, Germans, Russians and Frenchmen alike make use of it in their business offices, in their clubs, and in their family circles. In short, it may be called the commercial language of the Orient. Signs are not wanting that point to its ultimate adoption as an international language. It must not be understood that I am particularly partial to the English language. I only wish to see some language selected by common consent as an international language to be used when people of different tongues have dealings with each other. This would save a great deal of time and trouble. Life is short at best, and the time that is devoted to the study of modern languages nowadays might, with greater profit, be employed in the acquisition of some useful branches of knowledge. In order to fill the requirements of an international language, it seems to me that the English language, if adopted as such from its general use, might be first modified and improved in a great many ways. Foreigners, for instance, are unanimous in condemning the atrocious manner in which words are spelled in English. I need not point out to you how many words a single sound sometimes represents. This is a matter of your daily experience and must come home to you oftentimes with great force. I venture to suggest that if you were to lop off all the excrescences from your words, such as the "ue" in "catalogue," and adopt the phonetic spelling altogether, you would spare many an unfortunate

foreigner the trials and tribulations he has to face at every step. In these days of electricity and steam, men of business cannot find time to master all the intricacies of a foreign language. The case is different, of course, with scholars who devote their lives to study and meditation. In order to meet the demands of the times, a language must be so simplified that foreigners can, without too much expenditure of time and labor, acquire it for all practical purposes, before it can secure universal adoption. If, therefore, English is to maintain the ground it has gained in the Orient, it must be modified and improved on the lines I have indicated. As the American people generally take the lead in every movement of progress and reform, I hope this question of improving the English language will not be neglected. Indeed, I regard it as a hopeful sign that in writing the word "programme," the useless "me" are frequently left out, and the letter "f" is substituted for "ph" in "photography." A congress of university professors and school teachers should, I venture to suggest, be convened to take up this question, so that a simple and uniform system of spelling and communication may be adopted.

The opening of the magnificent building for the Law Department, which took place yesterday, is an important event in the history of this University; and I am glad that I was able to be present at the ceremonies. I take a peculiar interest in this department. Recognizing the value of a knowledge of common law and international law, I went to England to pursue my legal studies; and I had the satisfaction of being the first Chinese who became a member of the legal profession in the western world. When I see, therefore, the splendid edifice within whose walls the students are to pore over their Blackstone, Kent, Wheaton, and other authorities, I am forcibly reminded of my student days in a similar institution in London. China has adopted the law of collision at sea which is in force in the western world. International law is

much studied in China, and most of the standard works on that subject have been translated into Chinese. Wheaton and Woolsey are used as text-books, and are frequently cited as authorities in solving difficult questions. International law is founded on the principles of justice, and every nation should, as far as possible, conform to it; but if it should be more honored in the breach than the observance, then its study, I fear, would be soon neglected by students. I trust, however, that day will never come, at least in our generation.

The sudden possessions of new and vast territories in the East, with a population of ten million, composed of thirty different races, speaking as many languages, presents problems of a most serious character for solution, and naturally taxes to the utmost all the ingenuity which even statesmen of a high order possess. Hitherto your attention has been confined to this continent, and the government of so large an alien population in another part of the world is a new experiment. No wonder various schemes for their government are proposed; and the delay in coming to a decision indicates your cautiousness and unwillingness to commit a blunder. With the intelligence and common sense of the American people, I have no doubt a right conclusion will be arrived at. The policy of a wise statesman would be not to enact laws for the newly acquired possessions, without thoroughly studying the local requirements and peculiar circumstances, or to extend the laws of the mother country which might be unsuited to the condition of the new territories. No unnecessary change in the existing laws and customs should be made. No encouragement whatever should be given to the ill feeling of one race or class against another; no step should be taken to please or conciliate one class in the community at the expense or to the detriment of another class; no race or class legislation should be tolerated. The policy of the new ruling power should be strictly impartial, fair and just; no interference with long

standing customs should be allowed unless they are cruel or injurious to good morals. Education is a great reformer, and if free schools are established, similar to the excellent public schools in this country, great results may be expected. This republic is young, and this is the first time she has acquired colonies 10,000 miles away. The experience is novel to her. Theories, however excellent, are not safe guides, especially in matters of legislation and government with respect to an alien race, and if errors should be committed, the consequences might be very serious. It is no disgrace to turn for some lessons to those powers which have had experience in the administration of colonies. England and France have acquired possessions in Asia, the former possessing territories which are not far from the Philippines, and having had to solve problems similar to those with which you are confronted. If a commission should be sent to those colonies to investigate the systems of government in actual operation, to study the experiments which have proved successful, and to find out what legislative enactments have been found suitable to the Asiatic people, this government would be able to learn some useful lessons and at least to avoid making mistakes which might afterwards be regretted and difficult to correct. The United States has now become an important factor in the Far East, not only on account of her newly acquired possessions there but also on account of her steadily increasing commerce with the nations in Asia. It behooves her to adopt a line of policy commensurate with the importance of the situation. Last December I attended one of the numerous exercises in commemoration of the death of Washington. The orator strongly advised the audience to read Washington's farewell address, remarking that he thought that not ten per cent of that audience had ever seen that document. I took the hint, and upon my return from that meeting availed myself of the first opportunity to peruse the address. It

was indeed full of good advice. What struck me most was the foresight and transcendent wisdom exhibited in every line of that address. For a foreign policy what can be grander than these words: "Observe good faith and justice toward all nations. Cultivate peace and harmony with all." This should be written in letters of gold, and serve as a guide to every nation in the world. It corresponds in effect to what Confucius inculcated when he said: "Let your words be sincere and truthful and your policy honorable and just." This good counsel of Washington has been a potent factor in shaping the policy of this country, and warding off foreign encroachments. When it became universally known that the policy of this young republic, as foreshadowed by its founder, was that of keeping good faith and cultivating peace and harmony with all nations, a favorable impression was naturally created far and wide. All nations perceived that this country was pursuing a just policy, and did not dare to give the American people any cause of offence. And twenty-seven years afterwards, when President Monroe issued his caveat against foreign aggressions on the American continents, it was tacitly acquiesced in by all foreign powers. Why? Because it was founded on principles of justice and self-protection. It was not entirely a new doctrine, but a liberal interpretation of the sound principles laid down by Washington. So to secure the recognition of the "open door" in China by the great powers, which has recently been brought about by your government through the able Secretary of State, is not a departure from, but a continuation of, your traditional policy.

The question now arises whether it is not time for this country to extend the Monroe Doctrine to Asia. The Philippine Islands are situated on the outskirts of Asia, and may be said to be at the very door of that continent. If it was necessary for President Monroe to declare any attempt to encroach upon any portion of the American

continents, extending over six thousand miles from Alaska to Patagonia, as dangerous to your peace and safety, what shall you say to this when you find that the mainland of Asia is not more than six hundred miles distant from the Philippines? If it was thought proper not to allow Puerto Rico, or any of the islands on this side of the Atlantic, to pass into the possession of any foreign power, would it be advisable to look with indifference on any encroachments on the mainland of Asia, especially the eastern portion, which is nearer to Manila than Puerto Rico to Florida? I do not apprehend any encroachment will take place. But the Monroe Doctrine, being the fixed policy of your government, the natural logic is that it should be applied to that part of the world where this country has possessions. This policy is by no means a selfish one, but, as I have already remarked, is founded on justice and self-protection; and if persistently carried out it will tend greatly to the preservation of peace wherever it is enforced.

I am far from making light of the services of the army and navy of this country, whose bravery has recently excited the admiration of the world, and whose deeds have won undying fame. It must, however, be admitted that skill in warfare and bravery in action may conquer territory; but to govern newly acquired dominion peacefully, and win the hearts of a people belonging to a different race, calls for the administrative ability and sagacity of a statesman. The pen is mightier than the sword. The dictum of Mencius, one of our ancient sages, is still true when he says, "A king can conquer the world by brute force, but he cannot keep it without justice and righteousness." In this country there is no lack of able men who can steer the Ship of State in a straight and undeviating course, keeping clear of shoals and rocks. Even in this hall I see around me men who have become famous in the different professions to which they belong; men high in office, who impartially administer the law and who scrupu-

lously protect the interests of the people. The affairs of the nation are safe in such excellent hands. In this vast audience there are many undergraduates who are now enjoying the privilege of preparing themselves in this great seat of learning for the noble but arduous work which they will before long be called upon to perform for their country at home or abroad. Whatever positions they may be required to fill, no doubt they will discharge their duties faithfully, and with credit to themselves and with honor to their country. Happy is America, that can boast of so many sons who are growing up to take part in the affairs of the nation. In the hands of men who have received training in this noble institution, where grand truths and sound principles of government are taught, this young but great nation will certainly continue to prosper, and the Star-Spangled Banner will be not only the symbol of liberty and freedom, but also the emblem of justice and righteousness.

The "University Day" exercises closed with the singing of the University hymn "Hail Pennsylvania."

Words by EDGAR M. DILLEY, '97 College.

Hail! Pennsylvania,
Noble and strong!
To thee with loyal hearts
We raise our song.
Swelling to Heaven, loud
Our praises ring:
Hail! Pennsylvania,
Of thee we sing!

Majesty as a crown,
Rests on thy brow;
Pride, Honor, Glory, Love,
Before thee bow.
Ne'er can thy spirit die,
Thy walls decay:
Hail! Pennsylvania,
For thee we pray!

Hail! Pennsylvania,
Guide of our youth!
Lead thou thy children on
To light and truth;
Thee, when death summons us,
Others shall praise:
Hail! Pennsylvania,
Through endless days!

The Historical Society of Pennsylvania held a reception at the close of the exercises at the Academy, which was largely attended by guests of the University.

After luncheon had been served the guests were conducted through the handsome rooms of the Society, and viewed the rare paintings and manuscripts collected during the past three-quarters of a century.

The afternoon of Thursday was devoted to an inspection of the University grounds and buildings, the Deans of the various faculties receiving and conducting the visitors through their respective departments. At four o'clock the Pennsylvania Debating Union held a reception in the Law School Building, music by the Glee, Mandolin and Banjo clubs of the University adding to the enjoyment of the occasion.

The reception over, the guests assembled for the dedication of Price Hall, in the new law building, as the permanent home of the Pennsylvania Debating Union.

The orator of the occasion, HAMPTON L. CARSON, LL. D., of the Philadelphia bar, was introduced by Provost Harrison, who spoke as follows:

Ladies and Gentlemen: It is a matter of peculiar personal pleasure to me to be present this afternoon at the dedication of Price Hall.

When I was quite a young man I entered the services of the University as a trustee, and I found that body full of eminent men—men without whom the history of Philadelphia could not be written. Of that number at that time was Mr. Eli K. Price, even then venerable in years. I have known both himself, Mr. Eli K. Price, and his son, Mr. John Sergeant Price, for many years. Both of them were full of public service and service to the University of Pennsylvania. Mr. Hampton L. Carson, of this city, has been friendly to the family and has naturally been called upon to deliver the address of dedication at this time, not only in dedication of the Hall itself to the memory of the father and his son, but also in memory of

The Officers and Council of
The Historical Society of Pennsylvania
request the honour of the company of

.....

at luncheon on Thursday, February 22nd
at one o'clock.

1300 Locust Street.

the founder's children, which is the memorial on the part of the children to the services of their ancestor. I have the very great pleasure in introducing to you Mr. Hampton L. Carson, the orator of the afternoon.

MR. CARSON'S ADDRESS.

Mr. Provost, Ladies and Gentlemen: This hall is dedicated to the memory of Eli Kirk Price, a Trustee of the University of Pennsylvania from 1869 to 1884, and of his son, John Sergeant Price, president of the Central Committee of the Alumni of the University from 1882 to 1897, and president of the Society of the Alumni of the Law Department from 1890 to 1897.

As I look forth from this rostrum, the forms and faces of those estimable men appear to my mental vision as distinctly as though they were present in the flesh. Behold! One of them a tall, spare, venerable man, of more than eighty years of age, with clear penetrating eyes beneath shaggy eyebrows, and with a high forehead crowned with locks which swept his shoulders and as white as the driven snow; the other, a sturdy, thick-set man of but little more than middle age, with a winning smile, a rich, deep voice, and a heartiness of manner which warmed you to the core. They were my friends; they were the friends of my father, and the duty which I discharge this afternoon is a labor of love. They were men of note in their day and generation; men of ability, of influence, of usefulness, of character, of integrity and renown. While alive, they were respected by all who knew them, and the memory of their sterling worth is cherished by many friends. They were simple, unobtrusive, modest men; they led clean, wholesome and honorable lives. They toiled incessantly for the public good, but sought none of the rewards of office. They were lawyers of unusual attainments, who lived up to the best traditions of the profession, who never soiled their palms, or dimmed the record of an honorable calling by a single act

which would bring scarlet to the cheek of the most sensitive. To profound professional knowledge they added an extensive acquaintance with philosophy and science. The elder man was remarkable for the breadth and depth of his insight into all matters affecting our civic welfare; while the younger one devoted himself unselfishly to the promotion of numerous public charities. Their descendants are worthy of their ancestry, and it is to their munificence that we owe this beautiful hall, which is henceforth to be the permanent home of the Pennsylvania Debating Union.

Mr. Eli K. Price was born, two years before the death of General Washington, in the neighborhood of the battle-ground of Brandywine, and his boyish eyes frequently looked upon scenes which have become classic in our Revolutionary annals. He was a sturdy youth, of Welsh, Irish and German descent; his German ancestors coming from the Palatinate of the Rhine. At twelve years of age he was so hardened by the labors of the farm that he was able to reap with a sickle his day's work of twelve sheaves, but he became impatient of the narrow horizon which hemmed him in, and, to use his own language, he escaped from the farm to enter the counting-room. He was employed by the well-known commercial house of Thomas P. Cope, then engaged in foreign trade, whose packets were the largest ships at that time afloat, and one of them I believe exists to-day, engaged in the petroleum trade. From thirteen to at least nineteen years of age he devoted himself to the study of commercial interests, and occasionally would look into books on commercial law and the law of shipping. His attention, however, became diverted little by little from purely mercantile pursuits, until he found himself attracted to the office of a great lawyer, to whose memory he felt that he could pay no more honest tribute of heartfelt respect than to name after his preceptor his own son, John Sergeant. Mr. Seargent was at that time

associated, so far as public estimation was concerned, on fair and equal terms with Horace Binney. In fact, any one whose mind travels back to the great names in that generation which reflect lustre upon the Philadelphia bar would naturally say "Sergeant and Binney." When Mr. Sergeant went to Congress, Mr. Price was a rising lawyer, who, having had the advantages of personal instruction in Mr. Sergeant's office, familiarity with his methods, acquaintance with his clients, and ample knowledge of the details of current litigation, took the whole burden on his young shoulders of conducting successfully, until his distinguished leader's return, a vast and varied practice. These matters occur to me with much of personal interest, for it was my good fortune to read law in the very office, so far as the building was concerned, of the great John Sergeant. The book-cases were still there which had held volumes once conned by Mr. Price, the portraits which hung on the wall recalled the memories of great men and pure citizens, and I often thought of the influences under which Mr. Price laid the foundation of his professional usefulness and renown. But it was not altogether in the field of commercial law, which was Mr. Sergeant's leading line of business, that Mr. Price was destined to succeed. His attention was soon directed to the more difficult branch of real estate, and it is no discredit to any of his predecessors or successors to say that he became in the fullness of time the ablest real estate lawyer that the bar of Philadelphia ever produced. In fact, Mr. Price's signature to a brief of title was far more highly thought of than the policies issued by the great real estate title insurance companies. Mr. Price's single brain carried, stored within its cells, all the extraordinary, accumulated, and detailed learning which is now a part of the corporate plant of every title company in the city. If ever there was a man who knew accurately the history of titles from the time of Penn to the present day, who could run out all the ramifications, whether by deed, by

descent, or by special devise, together with all the nice distinctions arising from subtle interpretations of the courts, it was Mr. Price, whose advice, sought upon all occasions, and whose judgment, relied upon by all clients, was frequently appealed to in settlement of matters as arbitrator, where his individual sagacity was preferred by business men to the chances of litigation in the courts. No wonder, then, that by the time he had reached the age of fifty-three years he stood, without rising on his toe tips, with head and shoulders in line with the tallest men in the foremost ranks of the profession. A demand was then made upon him for a public service which this generation and generations yet unborn will learn to value as one of the most remarkable obligations on the part of posterity to a purely professional man that it has been the duty of professional annalists to record.

Reluctantly—he says it himself—he yielded to a call by his fellow-citizens to allow his name to be used as a candidate for the State Senate in the year 1851. The condition of affairs prevailing in the city of Philadelphia at the time was peculiar. It is not now recalled except by the memory of a venerable man, now nearly one hundred years of age, who still lingers on the scene, who was cherished as a colaborer in the Senate, a partner in many struggles entered into for the public good—I mean the venerable Frederick Fraley, a man, who, with Mr. Price, headed the poll on an independent ticket, for the purpose of emancipating the city of Philadelphia from the chains which bound her. It is a curious chapter in our municipal history. Philadelphia proper was then but two miles square, consisting of twelve hundred and eighty acres of ground, extended from South to Vine streets, and from the river Delaware to the Schuylkill. Outside of this there were nine distinct districts, such as Spring Garden, Kensington, the Northern Liberties, Southwark and Roxborough. There were also thirteen distinct boroughs and four townships, and each of them was under a separate

form of government. The county was split into numerous fragments, each boasting of its sovereignty. There were frequent riots and bloodshed in the streets, citizens were massacred because of hatred of men of color or religious antipathies, while conflagrations were kindled by contending factions of firemen for the entertainment of visiting strangers. Philadelphia holidays were graced by free fights in the streets, by the burning of churches, or the riots of 1844; the scenes were reenacted of the Via Appia in the old days of Rome, when the faction of Milo contended with that of Claudius, and when criminals who had violated the laws and ordinances of the city of Philadelphia found immunity in escaping over an imaginary line on the north side of Vine street. The mighty energies of the municipality were paralyzed; her enterprises were dwarfed, and became pinched for want of sustenance and air. Philadelphia, which had been the leading city of the continent, the federal capital in the days of the Revolution, the metropolis of the Washington and Adams administrations, pined and shrank until it became the fourth city in the Union. Clear-sighted men foresaw that a public service could be rendered to this great county similar in character to that performed by the Federal Convention, when out of thirteen separate sovereignties there was organized and evolved a national government for the boundless territory of the Republic. Mr. Price was tall enough "to see the tops of distant thoughts which men of common stature never saw," and looking far into the future he saw the skies brightening with the glow of promise. At the sacrifice of his own individual convenience, at the loss of great professional emolument, at the earnest solicitation of a non-partisan representation of the citizens, he consented to an election to the State Senate. No words of mine can add force to those which Horace Binney used in a letter written to his own son, when he heard that Mr. Price's candidacy was spoken of, or can exceed them in fitness of eulogy.

"I should think your battle would be half won if you could place Eli K. Price's name, with his consent, at the head of your list. His name is a pledge already given, and not likely to be forfeited, for qualities specially necessary at such a time and on such an occasion: experience in civil affairs, general knowledge, talents, integrity, moral courage, constancy and conscientiousness. He has moreover, great *practicalness* and facility that enable him to impress other minds with his own convictions."

Needless to say the ticket was successful, and the Consolidation Act of 1854, the second great charter of our city, the precursor of the Bullitt Bill, was passed largely through his efforts; and what was the effect? The great territories which stretched out on every side, consisting of vacant fields and dilapidated buildings, suddenly, as though from a stroke of the enchanter's wand, sprang up into a great, thriving, beautiful and evergrowing metropolis. The city of Philadelphia became the jeweled bride of the Commonwealth. Many years afterwards, looking beyond the scene of his achievements, and peering, as old men gifted with a touch of prophecy sometimes do, far into the future, Mr. Price predicted, as I believe no other man has yet done, that the day is not distant when Montgomery and Chester and Delaware counties will knock at the doors of Philadelphia, and pray that all the prosperous boroughs and thriving townships which lie between here and Downingtown, and from Chester to Bristol, should be embraced under one charter of municipal government, which will cause the life-blood of a great community to pulsate through widely articulated veins.

A great statesman was this quiet Quaker lawyer. A great public benefactor, most modest man that he was. Then, taking his pen, and giving to the public, without fee or hope of reward, not even covetous of the benedictions which now rise to the lips of generations which call him "blessed," he sat down and penned that great statute for the unfettering of our titles, known as the Price Act,

which has stricken off the fetters which shackled our real estate, and which, in the language of one of our great jurists, has introduced more in the way of practical reform into the law than anything that has occurred since the days of the great case of Taltarum.

It was my privilege to be present at a dinner given by the Bar of Philadelphia when Chief Justice Sharswood retired from the bench, and laid aside the ermine which he had worn so spotlessly and without reproach for many years. Seated on his right—I can see him now—with eager, earnest, benignant face, was Mr. Price, who gazed at the magistrate who had put into the lasting form of judicial expression the principles which he himself had formulated in the office or had stated at the Bar, and the Chief Justice, turning to the venerable leader, said, "Mr. Price was not what in England would have been called a conveyancer, but he is fit to rank with the great names of Booth, of Fearne, of Preston and of Hargrave." On the opposite side of the table sat the most renowned of English barristers, then visiting this country, Mr. Sergeant Ballentyne, a man who went all the way to India to defend the Gukwar of Baroda, who rose and said that in the whole course of his professional career—and he had been present at many meetings of the Bar at Lincoln's Inn, in the Middle Temple, and at Gray's Inn—he could not recall anything more touching than the manner in which the veteran leader faced the great Chief Justice, and the Chief Justice paid tribute to the integrity and character of the leader.

I remember also entering a crowded hall, now some thirty years ago, where there was a tumultuous assemblage. It was in the old wigwam in the northern part of the city. A speech was to be delivered by the renowned orator of the black race, Frederick Douglass, and there was great anxiety on the part of all present to hear him. Mr. Price arose to address the meeting, and among the younger generation there were but few who knew who

he was, and some disturbance occurred because of the eagerness to hear Douglass. The noise rose almost to the point of tumult; Mr. Price, with the trembling voice of great age, was unable to control it, when the chairman of the meeting rose, and in tones which penetrated to the utmost recesses of the hall, said: "Gentlemen, there are many of you who were not alive when the gentleman who is now addressing you was a faithful and an honored public servant. I simply mention his name in this presence. The man who is now speaking is Eli K. Price." Instantly the feeling of respect was such that there was a hush through the hall, and for fifteen minutes the most rapt attention was paid to the words of one fast verging on eternity; words of political wisdom, words of cheer, words which thrilled the hearts of that vast audience, because all recognized that largely owing to Mr. Price's courageous and persistent advocacy of the cause of freedom it had become possible for a black man to speak without insult or rebuke before an audience in Philadelphia.

Mr. Price did not devote his attention entirely to professional pursuits. As he threw on the shoulders of his affectionate son the burden of the cares of a great office business, he turned his eyes to those shining heights of science and philosophy on which thinkers love to dwell, particularly as they are near the closing scenes of life. Before the American Philosophical Society, before the American Numismatic Society he read papers and discussed the current science of the day. I recall the titles of his papers, "The Glacial Epoch," "Some Phases of Modern Philosophy;" and with a lawyer's well-trained faculties, which enabled him in discussion to balance evidence and apply rules, he accomplished a task which surprised many persons by demonstrating that a lawyer was interested in much beyond the limits of his own profession.

His love of plants and trees found full expression in

his work in Fairmount Park, where, as a commissioner, he labored hard upon the establishment of the Michaux Grove. He himself described the significance of a mound which he himself erected, standing over here within a stone's throw of the campus, a rockery, in the shape of a clover leaf, giving us an interesting geological description, thus indicating the extraordinary character of his attainments and the range and versatility of his mind. In 1884, in his eighty-eighth year, he passed away.

The burden of a great business fell on the shoulders of his son, John Sergeant Price, a man who easily sustained the distinction of a great name.

Mr. John Sergeant Price was not as frequently in the courts as some of the other advocates if we confine our attention simply to the Courts of Common Pleas, but in the Orphans' Court, the Court of Probate, I think it safe to say that, during the years in which he appeared there, but few practitioners more frequently or substantially assisted the judges in the discharge of their arduous and intricate duties. But few counselors ever gave to a court the fruits of learning in such abundance. No man ever discharged his debt to his profession with more unselfish and untiring persistence. But few men ever poured forth upon the records such a profuse display of varied ability to deal with complicated accounts, with intricate settlements, and forms of entail. He carried in his heart and in his head the precepts and the learning of his father.

As a man and as a citizen, he illustrated many types of excellence. He was robust in his friendships, earnest in his advocacy of plans for public improvements, and stern in his denunciations of wrong. He wrote his name on the records of no less than eighteen public charities, and during twenty years served as a member of numerous committees, and presided over the meetings of the Central Committee of the Alumni and the Alumni of the Law Department. He was never known to absent himself from a single meeting or to send a single line of

excuse for nonperformance of duty; he was a man the fullness of whose affectionate nature folded about him the warmest sympathy and loyalty of his friends.

Such were they, father and son, whom we honor to-day. The characters of some men are made of granite; those of others seem to be but sand and clay. In the action and interaction of the wild waves of life, which sweep in stormy surges through the lives of most professional men, all the perishable parts are washed away, and there appear the rock-ribbed hills, which stand for firmness, for integrity, for nobility of aims, on whose sides can be seen inscribed, in characters to be read by all, the lessons of their lives; and as they recede in that haze of years which pass one by one like cloud-rifts before us, finally the illumined summits appear on which the eyes love to linger, because they point to an atmosphere of holiness.

Gentlemen of the Pennsylvania Debating Union, it is in memory of good men that this hall is founded. Of what use is it to talk of the examples of noble lives, or of the deeds of those who have "crossed the bar," unless we have ourselves a fixed determination to make our conduct a fair pattern of theirs, and, in the language of Goethe, "So act that the rules of our lives shall become the principles of eternal law." Here on this floor you will contend in debate. You will discuss many strange and arduous questions. The problems of the world are not yet solved, and new situations are presented every day. As I listened this morning to that admirable address in the Academy of Music from the lips of an Oriental, discussing, in our own tongue and without an accent to betray a foreign origin, not only the great problems of the present, but forecasting the probable issues of the future, I felt that no academic occasion of the last hundred years was more significant of results. An Oriental talking in the Occident! How long will it be before a man from this great, growing, struggling Western

Republic will talk in the Orient in the tongue of Wu Ting-Fang? What message have we for the children of the sun? How many subjects of debate are suggested by that single thought, which must be worked out and discussed here! Remember, gentlemen, it is not dexterity in debate, nor satisfaction in fleshing your sword in the argument of your adversary, nor simply skill in dialectics that you are alone to acquire. You must search for truth, absolute truth. If we learn aright the lessons so impressively taught us, not only by the addresses and the ceremonies of the last few days, but by the lives of the men whose memories we to-day clasp to our hearts, we must feel that there can be no nobler self-sanctification than to the cause of our God, our country, and truth.

Provost Harrison then introduced MR. GERARD BROWN FINCH, the representative of the University of Cambridge. Mr. Harrison spoke as follows:

Ladies and Gentlemen: During these two days to which Mr. Carson has just referred, days so interesting to us all, we have received the congratulations of the Universities of Oxford and Cambridge, and have had the pleasure of listening to an address by Sir Charles Arthur Roe. This afternoon we have the pleasure of listening to Mr. Finch, representing Cambridge University, and it is a happy circumstance that the first speech in this building upon the progress of the law will be from the distinguished guest from Cambridge. I have the very great pleasure of introducing to you Mr. Gerard Brown Finch.

MR. FINCH'S ADDRESS.

I have to express my great regret that I have not had time to prepare on any department of the law an address suitable to this important occasion, which has drawn together eminent Judges and Professors from all parts of the United States. But I ought not to let the establishment and dedication of the new law school of

this University pass without a few observations on some points connected with the law of England, that seem to me interesting and important; and I feel assured that my few almost extemporized remarks will receive a kind indulgence at your hands.

The field of our common law is one of vast interest to the student. The law furnishes the framework in which society exists. The cases that are dealt with in the courts reveal to us details of the daily life and mutual relations of the people in the times in which they arise; and the remedies afforded mark the stage of development of its legal and ethical sense.

But it is not as I have said of any department of the law that I wish to speak; but in considering the development of the law there are two features which are of especial interest to me, one of them—paradoxical as it may sound—is a process of reversion, reversion to the ancient political ideas of the Anglo-Saxon race; the other is an outcome of the moral growth of the people. I can not now venture far into either of these features of our legal history, but I will cite one or two instances. In the year 1894 an Act was passed with these provisions:

sec. 1 There shall be a parish meeting for every rural parish, and there shall be a parish council for every rural parish which has a population of 300 or upwards.

sec. 2 The parish meeting shall consist of the parochial electors, namely, the persons registered in the local government register or the parliamentary register of electors.

sec. 6 There were transferred to the parish council:

(*a*) The powers, duties and liabilities of the vestry and of the churchwardens, except so far as related to the affairs of the Church; of the overseers; power to make representations with regard to unhealthy dwellings, and with regard to allotments.

sec. 7 To the parish meeting was given power to adopt:

(*a*) The Lighting and Watching Act, 1833;
(*b*) The Baths and Washhouses Acts from 1846 to 1882;
(*c*) The Burial Acts from 1852 to 1885;
(*d*) The Public Improvements Acts, 1860;
(*e*) The Public Libraries Act, 1892.

sec. 8 The parish council also had conferred on it power—

(*a*) to acquire buildings for offices, etc.;
(*b*) to acquire land for such buildings and for a recreation ground;
(*c*) to take charge of and improve any recreation ground, village green, or open space;
(*e*) to utilize any well, spring or stream within their parish, and provide facilities for obtaining water therefrom;
(*h*) to accept and hold any gifts of property, real or personal, for the benefit of the inhabitants.

sec. 9 Power was conferred to obtain land by compulsion through the intermediation of the County Council, and, with the consent of that Council and of the Local Government Board, to borrow money.

sec. 14 And powers of administration with regard to charities (other than ecclesiastical) for the benefit of the inhabitants of any rural parish, were given to the parish council.

Now, Mr. Freeman, in the three lectures which he published under the title of "The English Constitution," saw in the parish vestry "the unit, the atom, the true kernel of all our political life." The origin of the Parish is by many writers said to be found in the Manor, and the origin of the Manor to be found in the Teutonic Mark. What was this Mark, this predecessor of the parish?

The Mark, in one respect, was a separated tract of cultivated land, occupied by a greater or less number of freemen constituting a tribe, and bounded by forests and wastes, in which the tribe had a common interest, in which they pastured their cattle and fed their swine, cut wood for building, for fuel and other purposes. That was

the basis on which the ancient Teutonic society rested. The Mark, in another respect, was, to use Mr. Kemble's words[1], "a union for the purpose of administering justice, or supplying a mutual guarantee of peace, security and freedom for the inhabitants of the district. In this organization, the use of the land, the woods and the waters was made dependent upon the general will of the settlers, and could only be enjoyed by all for the benefit of all. The Mark was a voluntary association of freemen, who laid down for themselves and strictly maintained a system of cultivation by which the produce of the land on which they settled, might be fairly and equally secured for their service and support." This institution, those whom we call the Anglo-Saxons, that is, the Angles, the Saxons and the Jutes, brought with them into England, and there soon came into existence a network of communities, the principle of whose being was separation as regarded each other: the most intimate union as respected the individual members of each. But this was not all. There was another institution, which consisted of a number of Marks, the union having been made for purposes of a religious, judicial and political character. Mr. Kemble says[2], "as the Mark contained within itself the means of doing right between man and man, *i.e.*, its Markmote; as it had its principal officer or judge, and, beyond a doubt, its priest and place of religious observances, so the Shire had all these on a larger scale; and thus it was enabled to do right between Mark and Mark, as well as between man and man—could decide upon the weightier causes that affected the whole community."

I will give one more extract relating to the ancient institutions of our forefathers, and I take it from a translation by Mr. Freeman out of Tacitus, who has given us our earliest account of the institutions of the Teutonic, or, as he calls them, Germanic tribes. Tacitus says of

[1] *The Saxons in England*, vol. 1, p. 54.
[2] *Ibid.* vol. 1, p. 73.

them, "They choose their kings on account of their nobility, their leaders on account of their valour. Nor have the kings an unbounded or arbitrary power, and the leaders rule rather by their example than by the right of command; if they are ready, if they are prominent, if they are forward in leading the van, they hold the first place in honour...On smaller matters the chiefs debate, on greater matters, all men; but so that those things whose final decision rests with the whole people are first handled by the chiefs...It is lawful also in the assembly to bring matters for trial, and to bring charges for capital crimes...In the same assembly chiefs are chosen to administer justice through the districts and villages."

We have, in the foregoing extracts, a sketch of the constitution which had grown out of a self-governing, a liberty-loving race of free men, the expression of their political sense and feeling. And the kingdom which ultimately became established in England lasted in its integrity until some time before the Norman Conquest. I say in its integrity, because the influence of the Christian priests, who came over from the Continent, combined later on with that of Norman visitors, began to work a change. Then came the great overthrow, known as the Norman Conquest, and the imposition upon the kingdom of the feudal system. Before that event the land belonged to the freemen: after the conquest it became vested in the king as lord paramount, and in the great lords as his superior vassals, who granted it out to their retainers to be held subject to the condition of the render of service. And whatever of pre-existing institutions was retained, yet the change in the relation of the people to the land, and by consequence in their freedom, was profound and far-reaching. For it is to be remembered, they were a race among whom their freedom and the ownership of the land on which the community was settled were inseparably associated. And although the history of our institutions records the removal, bit by bit, of the feudal

system, commerce undermining it and the judges, by their decision, helping to break down the system by which the lands were retained in the great families, and although the institution of the Crown, ruling by and with the advice and consent of the two houses of parliament, had been firmly established for centuries, yet the opening of the nineteenth century found the great mass of the people of England, including the dwellers in many large and flourishing towns, without any voice in the government of the land.

Let us see what the vestry had become in the middle of the 18th century, that institution in which Mr. Freeman saw, as I believe the fact was, the survival of the ancient Teutonic mark. I have made a few extracts from Mr. Shaw's Parish Law, the 9th edition of which was published in 1755.

A Vestry is defined as the assembly of the whole parish met together in some convenient place for the despatch of the affairs and business of the Parish.

Anciently and at common law every parishioner who paid Church rates, or scot and lot, and no other person, had a right to come to these meetings.

The powers of the Vestry related to the election of Churchwardens, Sidesmen and the Beadle, and to levying rates for the relief of the Poor and to maintain a fire-engine.

The duties of the Churchwardens were to maintain the fabric of the Church, other than the Chancel, and to take charge of the goods of the Church. And they were to make presentations with regard to all such matters as were presentable by the laws ecclesiastical of the realm.

The enumeration of those matters would astonish any one born in these days. The Churchwardens were to present Almshouses, if abused; Alehouses &c. in divine service, Blasphemers, if any; whether the Parishioners attended Church; Drunkards, if any; offences within

the scope of the 7th Commandment; whether the Sacrament was received three times a year by all above 16; "And lastly, which I fear," says the Author, "is not duly minded, whether any, dissenting from the Church of England, do keep schools without having subscribed to the Church articles and without having a licence to teach from the Bishop, and without having made a declaration constantly to come to Church. And it being a matter of great moment to secure youth from being corrupted with ill principles, the Churchwardens are to do their duty therein with the utmost care."

I pause to interject a remark that here we are in presence of that spirit of tyranny and intolerance that drove so many earnest souls to leave their homes and to seek in this land the freedom of worship which was denied them in their own; a spirit which under other forms at last drove the liberty-loving colonists to assert by force of arms their right to self-government, that political instinct of the race.

But, to return. When the Local Government Act of 1894 was passed the jurisdiction of the ecclesiastical courts in the matters above referred to had been abolished, and the Act of 1894 transferred to the Parish Meeting the small remnant of secular authority, which then remained to the Vestry. That Meeting, as we have seen, is now no longer restricted to those who pay church rates; but consists in effect of all the householders of the Parish, who combine within their body the freeholders, the tenants and the labourers. The matters confided to the administration of the Parish Meeting and its executive, the Parish Council, are of larger scope than the levying of rates for the relief of the poor, and anyone who has been brought into touch with the working of the Parish Council, as I have, can perceive the awakening, which is going on consequent upon the measure of self-government restored to the village communities and the sense of responsibility which its exercise entails. The

Parish Meeting and Parish Council represent the ancient Markmote and its officers described in the extracts I have already given,

I have dealt so far with the Parish. After the Parish comes the aggregation of Parishes forming a District, and the aggregation of districts forming a County. The Act of 1894 established District Councils, having powers for the maintenance of roads and the general carrying out of the Public Health Act.

The County Council, was established by the Local Government Act, 1888. Prior to its passing the administration of the County was vested in the Magistrates at Quarter Sessions, the Magistrates being appointed by the Lord Chancellor on the recommendation of the Lord Lieutenant of the County. All the administrative powers of the Magistrates with many other important duties were transferred by the Act of 1888 to the Council, a body no longer appointed by the central authority, but elected by the free voice of the householders of the County.

Time does not permit me to speak in any detail of the District Council constituted by the same Act of 1894, or of the County Council constituted by the Local Government Act of 1888; but the three Councils, of the Parish, the District and the County respectively, correspond to and represent in modern form the ancient Courts of the Mark, the Hundred and the Shire; and they are a signal instance of the re-assertion of the idea of self-government which is the imperishable endowment of the Anglo-Saxon race.

The various Reform Acts, the last of which was passed between twenty and thirty years ago, furnish another instance of reversion. Before the passing of these Acts the suffrage was limited to only a fraction of the people. Their effect was to give to every householder, whether in county, city, or borough, the right to vote in the election of representatives in the House of Commons.

But, adequately to deal with the question I have raised, one should begin immediately after the Conquest with the demand made by the Saxons for the restoration of their ancient laws and the promise made by the Conquerer to comply; a promise that could not be carried out in its fulness except by the abandonment of the feudal system, which was impossible. But I must mention two other instances. Before the Conquest women possessed proprietary rights, which were lost after that event. Under the Saxon law the guardianship only of a woman's property went to the husband on marriage, and prior to that event was vested in her father. The Norman law merged the legal existence of the wife in that of her husband; *eadem caro vir et uxor* was its maxim. This was modified to some extent in later times by the action of the Court of Chancery, allowing property to be settled to the separate use of a married woman. But within the last thirty years the wife has had restored to her, not merely the protected ownership of her property under the ancient Teutonic system, but her rights are now as unrestricted and free as those of a man, except where the donor of the property has superadded the protection of a restraint on anticipation during her married life.

My last instance is the most conspicuous and the most convincing of all. The proposition I am maintaining would not be true if it did not find instances in this country, and the instance I will cite is the Declaration of Independence made in this City and the establishment of the Constitution of the United States. That Declaration sprang from the love of freedom and the craving for self-government which I have referred to, and which are for our race as the air in which it lives. And as to the Constitution, consisting, as it does, of a union of self-governing States, each of which is sovereign within its own territory and as regards its own citizens, but under the authority and protection of the Union, which is empowered to do right between State and State, between a State

and a citizen of another State, and to deal with the weightier affairs that affect the whole community, I say, we have in that Constitution, on a stupendous scale, the spirit and general design of the Teutonic institutions, described in the extracts I have cited, and brought into England by our common Anglo-Saxon forefathers.

Ethnologists tell us that races do not change in their chief physical or mental characteristics, and I believe it. The pictures in the tombs of Egypt represent the fellah with the features, and doing the work, which belong to him in the present day; and the wandering Arabs of the deserts in Syria and Arabia have prolonged to our own time the features, the manners, and the customs of the contemporaries of Abraham and Lot. The character of a people may be likened to that of an individual. Time does not change its essential elements, though it may bring growth.

When I began this paper it was my intention to treat of the growth of the ethical element in our Common Law, and I proposed to bring forward as illustrations of my second theme :—

(i) The abolition by England of slavery in the West Indies at what was then considered a great price in money; and the like abolition in this country at a cost in blood and treasure almost incalculable.

(ii) The sympathetic treatment of subject native races both by England and the United States.

(iii) The passing of the Factory and Mines Regulation Acts in England, by which the hours of labor of the working classes were shortened, protection against the dangers of their employment was provided, child labor abolished, and that of young persons regulated.

(iv) The removal of the restrictions on Trades Unions.

But I am compelled merely to mention them. With regard to Trades Unions, the struggle which is going on between them and the employers of labor is one of momentous interest; and the impartial neutrality of the

The Law Association of Philadelphia,
The Lawyers' Club of Philadelphia
and the
Pennsylvania Bar Association
request the honour of the Company of

.....

at a Dinner to be given at
Horticultural Hall, in the City of Philadelphia,
on Thursday evening, February twenty-second, 1900, at six o'clock;
in commemoration of the opening of the new building of the
Law Department of the University of Pennsylvania.

The favour of an early answer is requested to
Mr. A. T. Freedley,
Chairman of Committee on Invitations,
211 S. 6th Street, Philadelphia.

Common Law in that contest has been strikingly illustrated by the intensely interesting and important case of Allen *v.* Flood, decided by the House of Lords in 1898. I venture to prophesy with regard to this contest that the growing moral sense of the people will bring a solution beneficial to both parties and fraught with blessings to the State. I am encouraged in this view by the Workmen's Compensation Act of 1897. That Act in the case of certain specified trades throws the compensation for personal injury, arising in the employment, upon the employer, that is to say, on his business. This is an act of justice and humanity, marking a great advance in the treatment of the question. Does not the recognition of such a right on the part of the workman contain the germ of a new status between him, his employer, and the business, out of which the final solution of the question may grow? If it is true that we are witnessing a reassertion of the ancient ideas of our race, we may expect that the solution will embody in modern form the spirit of the ancient Anglo-Saxon organization disclosed in the first citation which I have given from Mr. Kemble's work.

Mr. Provost, in concluding this fragmentary address I desire to avail myself of the present opportunity to express my grateful thanks for the signal honor which the Trustees of the University of Pennsylvania have done my colleague, Sir Charles Roe, and myself in conferring upon us the honorary degree of Doctor of Laws. I take it to be an expression of the great respect and regard felt by the members of your University for the venerable Foundations of Oxford and Cambridge, which we represent.

And I desire to thank, not only the University, but also the Law Institutions and the Citizens of this great city, for the abundant testimonies of good-will which they have showered upon us.

Mr. Provost, I wish success to this new Law School. May it maintain the traditions handed to it from its pre-

decessor; and may it ever be the wise teacher, the faithful interpreter and the zealous guardian of our glorious Common Law.

The exercises closed with a commemorative dinner given by the Law Association of Philadelphia, the Lawyers' Club of Philadelphia and the Pennsylvania Bar Association, at Horticultural Hall, at which six hundred and fifty persons were present. The banquet hall and tables were profusely decorated with flowers, and the walls were hung with portraits of eminent lawyers and judges.

Samuel Dickson, Esq., Chancellor of the Law Association, presided. Upon his right sat Hon. John M. Harlan, of the Supreme Court of the United States; His Excellency Wu Ting-Fang, the Chinese Minister; Provost Charles C. Harrison; Dr. Gerard B. Finch, of the University of Cambridge, England; Dr. S. Weir Mitchell; Hon. Oliver Wendell Holmes, of the Supreme Court of Massachusetts; Mr. James C. Carter, of New York; Hon. Wm. H. Taft, of the Circuit Court of the United States; Richard C. Dale, Esq.; and Professor James B. Thayer, of Harvard University.

On the left of the presiding officer were Hon. Wm. U. Hensel, ex-Attorney-General of Pennsylvania, who acted as toastmaster; Hon. George Gray, of the Circuit Court of the United States; Sir Charles Arthur Roe, of the University of Oxford, England; Hon. Henry Green, Chief Justice of the Supreme Court of Pennsylvania; President Francis L. Patton, of Princeton University; Mr. John E. Parsons, President of the Bar Association of New York; Professor Simeon E. Baldwin, of Yale University; Hon. John P. Sterrett, of the Supreme Court of Pennsylvania; Hon. Wm. J. Magee, Chief Justice of the State of New Jersey, and Professor George Wharton Pepper, of the University of Pennsylvania.

The following is a facsimile of the dinner program:

FEB.
22ND
1900

VIRTUE
LIBERTY
INDEPENDENCE

Dinner

Commemorative of the opening

of the

New Building

of the

Law Department

University of Pennsylvania.

February 22nd 1900.

ORGANIZED
1790

FIRST LECTURE DELIVERED
DECEMBER 15, 1790
IN THE
ACADEMY
BY
JAMES WILSON

SECOND COURSE OF LECTURES
DELIVERED BY
CHARLES WILLING HARE
APRIL, 1817
IN THE COLLEGE BUILDINGS
ON NINTH STREET

REORGANIZATION
1850
UNDER
GEORGE SHARSWOOD

REMOVED TO WEST PHILADELPHIA
1874

REMOVED TO BROAD AND CHESTNUT STREETS.
1888

OCCUPIED BUILDINGS IN INDEPENDENCE SQUARE
1895

Dinner

GIVEN UNDER THE AUSPICES OF

The Law Association of Philadelphia

Incorporated March 13, 1802

—

The Lawyer's Club of Philadelphia

Incorporated July 9, 1892

The Pennsylvania Bar Association

Incorporated July 1, 1895

HORTICULTURAL HALL

Philadelphia, February 22, 1900

Menu

Blue Point Oysters

Green Turtle Soup — **Rich Old Amontillado**

Olives — Celery — Almonds

Chicken Halibut

Cucumbers — "Hollandaise" Sauce

"Vol au Vent" of Sweat Breads — **Chateau Sauterne**

Roast Loin of Mutton — **Champagne**

French Peas — Potatoes "Duchesse"

University Punch

Terrapin

Tomato Jelly Salad — Brie and Roquefort Cheese

Nesselrode Pudding — Rum Sauce

Fruit — Coffee — Candy

Cigars — Cigarettes — **Cognac 1857**

1	MARCH	Hands Across the Sea	*Sousa*
2	MEDLEY	Overture of College Songs	*Beale*
3	WALTZ FROM THE AMEER		*Herbert*
4	MARCH	Franklin Field	*Gilpin*
5	SELECTION	Fortune Teller	*Herbert*
6	MARCH FROM THE JOLLY MUSKETEER		*Edwards*
7	INTERMEZZO	Pas des Fleuis	*Delibes*
8	SELECTION	The Singing Girl	*Sousa*
9	CHARACTERISTIC	A Bunch O' Blackberries	*Holzmann*
10	MARCH	The Man Behind the Gun	*Sousa*
11	WALTZ	The Conquerors	*Furst*
12	AIRS FROM THE RUNAWAY GIRL		*Caryll*
13	WALTZ	April Smiles	*Derteir*
14	MARCH	Philadelphia's Favorite	*Beale*
15	CHARACTERISTIC	Smoky Mokes	*Holzmann*
16	MARCH	Houston Club	*Goeckel*

E. D. Beale's Orchestra

I. The Memory of Washington.

II. The Judiciary.

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While the guests were assembling and during the banquet an orchestra, stationed in the foyer, rendered musical selections.

The company being seated, Mr. Dickson arose and delivered the following introductory address:

Gentlemen:—When Mr. Justice Harlan, His Excellency the Chinese Minister, and representatives of Oxford, Cambridge and Harvard Universities consented to deliver addresses at the opening of the new building of the Law School of the University of Pennsylvania, the Provost and Trustees felt warranted in inviting members of the Bench and Bar and of the universities and colleges throughout the country to be present; and when it became known how graciously this invitation had been acknowledged, the members of the Bar of this city and State requested that they might be allowed to ask those in attendance to be their guests this evening. We were fully aware that although it seems to have been, even in the days of Shakespeare, a custom of immemorial antiquity for adversaries in law to strive mightily, but to eat and drink as friends, a dinner of this kind has never yet been made entirely satisfactory, but it may at least serve as a collective expression of goodwill and cordial welcome and friendly regard, and as such we hope it will be accepted by our guests this evening. The members of our Bar highly appreciate the honor done to the University and to the city by the presence and participation on this occasion of so many distinguished men, and they have planned and prepared this entertainment as a token, however imperfect, of grateful appreciation.

In thus coming together, it is impossible not to have a new and keener sense of our community of interest in our common profession. We have here the representatives of sixteen law schools; of the State judiciary from Massachusetts to Minnesota; of the Federal judiciary having jurisdiction from the Lakes to the Gulf and from ocean to ocean; and of the great historic universities of

England. But although process runs in a different name in each different jurisdiction, the system of jurisprudence is, in its main features, substantially identical in every *forum* represented here to-night. For this inestimable advantage, the people of the United States are mainly indebted to the lawyers of the United States, and primarily and chiefly to those who so instructed and controlled public opinion, from the beginning of the controversy with Great Britain, that the War of the Revolution was conducted throughout as one of self-defense for the preservation and protection of the constitutional rights and privileges of the colonies.

In making the contest upon these grounds, they were following precedents with which they were familiar in English history. The conservatism of the race has always, except in the case of the Commonwealth, prevented any violent break with the past, and Dr. Arnold has well said that it is the blessing of English history that its "days are bound each to each by natural piety," and that the continuity of the national life has never been severed. The American lawyers of the last century were as resolute as the English statesmen of 1688 in their determination to hold fast to all that was good, and at the very time of renouncing allegiance to the English crown, they renewed their allegiance to the common law of England.

The part taken by lawyers in framing the Federal and State Constitutions has been a frequent theme of commendation by the commentators and courts, as notably in the address to which we had the pleasure of listening last evening, but, so far as I know, nothing has been said of the great service done by the lawyers of the Revolution in carrying over the everyday law of the people, nor of what has since been done by their successors down to the present, to make it what it now is. A brief mention of a few familiar facts will recall to your minds something of what has been done by the profes-

sion during the last century and a quarter in this behalf, and, at the same time, conduce to a better understanding of the significance of such a gathering of American lawyers as this.

It had long been the fashion to speak of the common law as the birthright of Englishmen. In the preamble of the Act of the General Assembly of Pennsylvania of 1718 it was recited that "it is a settled point that as the common law is the birthright of English subjects, so it ought to be the rule in British dominions"; and in 1722 it was said by the Master of the Rolls to have been determined by the Lords of the Privy Council, "that if there be a new and uninhabited country found out by English subjects, as the law is the birthright of every subject, so wherever they go they carry their laws with them." This view was generally accepted, with the qualification that the colonists carried with them only so much of the law of the mother country as might be found applicable to their condition in the new.

In fact, therefore, each colony had gradually built up a common law of its own, adapted to its peculiar wants, which differed in many respects from the original, and from that of the other colonies. There were few educated lawyers on this side of the Atlantic down to the latter half of the eighteenth century, and no book gave an adequate and easily intelligible statement of the principles and rules of the common law till the appearance of Blackstone's Commentaries. The settlers were chiefly engaged in tilling the soil, their hands were seldom idle, and in their simple and primitive lives they had little need of the refinements of the law. What they prized was the liberty to govern themselves in their own way, to manage their own affairs, to follow their own customs, and to assert and maintain the personal independence of the individual; and above all, they valued the guarantees which have always made the common law the bulwark of the liberty of the people.

It is probable, therefore, that in claiming the common law as their heritage, they were using language to which they did not always attach any very clear and distinct meaning; but beginning with the year 1760, a brilliant group of young men, no less than one hundred and fifteen in number, chiefly from South Carolina, Virginia, Maryland, Pennsylvania and New York, crossed the ocean to become students in the Inns of Court. Most of them became conspicuous in the great debate which followed their return, and among them were most of the men who became the leaders of the Old Bar of Philadelphia. From their political writings, and from the scanty summaries of their arguments preserved in the reports, and from the opinions of those of them who sat upon the Bench, we still continue to find satisfactory proof that they would have been learned and accomplished lawyers in any court of any day; and when they spoke of the common law, they meant by it what the term means now. No more glowing and discriminating panegyric upon the common law was ever pronounced than by Judge Wilson in the lectures which he delivered in 1790 before the Law School of the University.

It cannot be doubted that it was their influence which led to its formal adoption by the several States soon after the Declaration of Independence. At the first session of 1776–7 of the General Assembly Pennsylvania under the new Constitution, an Act was passed continuing all laws previously enacted, together with the common law, and such of the statutes of England as had theretofore been in force, except as specially excluded. Similiar action was taken in other States, and by constitutional provision, by statute, or by judicial declaration, the common law was made the basis of the legal system in all of the thirteen States.

It was, of course, the modified system in each colony which became of binding authority in the new State, but fortunately, the Commentaries of Blackstone of

which the first volume was only published at the end of 1765, had been completed in time for an edition to be published in this city in 1771–2, and, as Burke pointed out in his speech in favor of conciliation with the colonies, more copies had been sold in America than in England itself, and it is estimated that at least twenty-five hundred copies had been sold here before the Revolution. No single agency did so much to bring about a substantial uniformity in the common law throughout the country, but by the adoption of only so much of the system as was in force at the date of the Declaration of Independence, it became a question for the courts, in each case, to determine whether the original rule had been introduced or superseded. This compelled the constant consultation of that great repertory of wisdom, which had been accumulated during the past centuries of English history, and which was recorded in the English reports, from the Year Books down; but, what is of greater value, it preserved and transplanted those seminal principles of growth by which the common law had come to be what it was, and by which it was to adapt itself to the wants and usages of a free people during all the centuries which were to follow. They thus retained the right of free access to the great body of decisions through which the system had slowly broadened down from precedent to precedent, while reserving the power to modify and change so as to suit the varying conditions of an active and vigorous people, rapidly expanding and developing in a new country. Hence, the law which really comes home to men's business and bosoms in ordinary times of peace and order, and which governs them in all the relations of private life, in the family, and in society; by which they owned or conveyed or devised their estates; by which they made or rescinded or enforced contracts; and by which every-day affairs were managed and conducted, continued just as before. The presumption was against any change

having been made, and the burden was on him who asserted its existence or necessity.

No men are more wedded to precedent and more averse to innovation than lawyers, on or off the Bench; but there never was any hesitation in recognizing an accomplished change in the habits and usages of the people, or a substantial distinction between the natural conditions here and abroad. Numerous modifications have therefore been made to bring the law into accord with the character and spirit of our institutions, and it may be fairly and justly claimed that both in retaining what was old and in welcoming what was new, the lawyers of this country have always acted in accordance with the precept of Bacon—"to take counsel of both times, of the ancienter what is best and of the later times what is fittest; to reform without bravery or scandal of former times, yet to set it down to ourselves as well as to create good precedents as to follow them."

Every lawyer will recall the changes which have been introduced into the law of his own State, and, by way of illustration, reference need only be made to such familiar instances in Pennsylvania as the disregard of the rule which rendered seizin in the grantor necessary to the validity of a conveyance of land; the rejection of markets overt; the law of the waygoing crop; the law of the road, of fences, and the like. Some or all of these find a parallel in other States, but one is of peculiar interest as illustrating how substantially the same question has been successively dealt with as it first arose on this side of the Alleghenies, and finally presented itself upon the Pacific slope.

From an early day, the navigable fresh-water rivers of Pennsylvania, though not tidal, had been declared public highways, and hence the old common-law rule as to the rights of the riparian owner was rejected. A similar view was finally adopted when the scope of the admiralty powers of the courts of the United States was

extended over navigable rivers and the great lakes; but the most striking example of the capacity of the common law, as a system of living principles, to adapt itself to the needs and facts of a vivid and vigorous life under new and stimulating conditions, was furnished by the manner in which the miners of California made a common law of their own. They drafted and adopted their own rules and regulations for each camp, and they claimed and exercised the right to appropriate and divert and consume the whole or part of any stream, and to assert the ownership of the water as against all the world, without any obligation to return it to its channel. When these rights had ripened into a coherent scheme, they were recognized and ratified by Act of Congress, but they revealed the capacity of men reared under "the hardy features of personal independence," fostered by the common law, to frame a form of government in an emergency, which courts and legislatures found it impossible subsequently to improve upon.

Thus it is that the people of this country, but chiefly its lawyers, have been engaged in building up a system which may now properly be termed the American common law. With patient and laborious research into the records of the past; with careful comparison between the conclusions reached in contemporaneous courts; by earnest and thorough discussion of every question of principle or of public policy, the members of our profession, each in the courts of his own State, are steadily and surely building up the great fabric of American law—the wide arch of the rang'd empire.

Not less, but in some respects more important, are the labors of men like those of Oxford and Cambridge who have lately written a history of English law before the time of Edward I., so thorough and complete as to make the profession in every English-speaking country their debtor, and who have taught us how better to value the work done at home, by the estimate they have put

upon it, when they say, as they do, that "when the ground has lately been occupied by a Holmes, Thayer, Ames, or Bigelow, they pass over it rapidly from a desire to avoid what they should regard as vain repetition."* They thus, in their turn, are perpetuating and making available all that is valuable in the past and helping to diffuse a scientific spirit among those engaged in the practice and exposition of the law, while those who are brought by their daily avocations into direct contact with the life of the people, and are compelled to deal with the average man as client or juror, are forced to study the practical outcome and to put every proposed improvement to the test of experience.

We may, therefore, justly regard ourselves, gentlemen—all of us, from the youngest tyro among those who united in tendering this entertainment, to the most distinguished of our guests—as fellow-workers in a common cause, each making some contribution to the common stock of legal doctrine, which is to be the most precious possession of the American people so long as the Republic shall endure, and to which may be fitly applied the words with which Goethe described Venice, "a grand, venerable work of combined human energies; a noble monument, not of a ruler, but of a people."

At the close of his address, Mr. Dickson presented Mr. William U. Hensel as the toastmaster of the evening, who, in a graceful speech, assumed the duties of his position.

The first toast was "The Memory of Washington," which was drunk standing and in silence. Mr. Hensel

* When one reads that sentence and thinks of the place which the monumental work of Sir Frederick Pollock and Professor Maitland has already taken, and is sure to hold so long as the English law is studied, he cannot help recalling Thackeray's comment on Gibbon's allusion to Fielding: "To have your name mentioned by Gibbon is like having it written on the dome of St. Peter's. Pilgrims from all the world admire and behold it."

next proposed "The Judiciary," which was responded to by Hon. GEORGE GRAY. Judge Gray spoke as follows:

Mr. Toastmaster: I will not presume, with my small experience on the Bench, to respond *for* the Judiciary. In the few words that I shall utter I shall attempt to speak only *of* the Judiciary. It would be a fruitful theme, indeed, were one permitted to dwell upon the relation of the Judiciary and the Judicial systems of our country to its growth and civilization. No fact stands out more prominently, even to a superficial observer of the history of English speaking peoples, than the important part performed by the Judiciary in the development of that history. It is not a hasty or ill founded generalization to say that the freest countries in the world—the countries where the largest individual liberty co-exists with the greatest security for public order—are those in which the judiciary are held in highest esteem and exert the widest influence. And it needs not to be said that those are the countries in which the mould and vehicle of free thought is English speech, and the accent of liberty is taught by an English tongue. We are compelled to conclude that it is a part of the instinct of our race and blood to achieve liberty regulated by law by those means which prove most efficient for that purpose.

If justice is the chief concern of government, the instrumentality by which it is administered must always be of the first importance. Our ideals of individual liberty, and of national and community freedom, which underlie all our municipal law, have their beginnings far back in the history of our race. With their growth and development have grown and developed our conceptions of the judicial establishment and the proper powers and functions of a free and independent judiciary.

I am recalled, in speaking of this subject, to an eloquent passage in John Richard Green's "History of the Making of England." I have a copy of it, and will yield to the temptation of reading it in this connection. He says,

in speaking of the town moot, in the early history of the peoples from whom we sprang:

"It is with a reverence such as is stirred by the sight of the headwaters of some mighty river that one looks back to these village moots of Friesland or Sleswick. It was here that England learned to be 'mother of parliaments'. It was in these tiny knots of husbandmen that the men from whom Englishmen were to spring learned the worth of public opinion, of public discussion, the worth of the agreement, the 'common sense,' the general conviction to which discussion leads, as of the laws, which derive their force from being expressions of that general conviction. A humorist of our own day has laughed at parliaments as 'talking shops,' and the laugh has been echoed by some who have taken humor for argument. But talk is persuasion, and persuasion is force, the one force which can sway freemen to deeds such as those which have made England what she is. The 'talk' of the village moot, the strife and judgment of men giving freely their own rede and setting it as freely aside for what they learn to be the wiser rede of other men, is the groundwork of English history."

And so it has come to be, that the common sense and best sense of every community, the conviction that has come from the crucible of discussion and contention, satisfying the awakened conscience and most enlightened judgment of the day, is voiced for us and for all English speaking people, from the judicial tribunal. Small wonder, then, that, from the beginning, there was required of those called to this high function a more than ordinary equipment of learning and of character. Doubtless in those beginnings the judgments and the personnel of the Bench partook of the rudeness of the times, but they both reflected what was best and most robust in the society of the day, and the development and improvement of both went hand in hand with the growth of civilization and the amelioration

of manners. And so our judiciary of to-day is the development, the fruition, and the perfect flower of the growth of the race to which we belong. It was because free institutions were in the blood and bone of those from whom we descended that we have them now, and, if God is willing, we will preserve them by the same means that we have always preserved them, by a brave, learned and independent judiciary. It is in declaring and expounding that great body of the law that lies outside of express legislative enactment, that our courts have performed their most important office, and have been enabled to exemplify and give articulate expression to the growth of the law. This is sometimes irreverently called "judge-made law," but it is only the voicing of the higher morality and the broader humanity of the time in which they speak.

It is after this fashion that "the law of the land," in its best and highest meaning, has become our inheritance, and that the muniments of freedom and individual liberty have been measurably placed beyond the reach of hostile legislation, executive power, or the encroachment of dominant majorities. It is this high meaning that the time-honored phrase, "the law of the land," has had since the days of "*Magna Charta*" down to the present time. Institutional freedom and the fundamental personal and political rights which may not be infringed, are to-day the peculiar care and highest trust of the judiciary—State and National. It is in the preservation of the rights, which were not the concessions of governments, but which governments were formed to protect, that our courts have performed their highest functions. It was an appeal to this "law of the land" that made resistance to the tyranny of English monarchs successful where with other people it failed, and it is this, the "law of the land," which to-day is our best security against the despotism of power, whether democratic or plutocratic.

Usurpation, whether striking through the forms of legislation or through unauthorized executive power, finds this barrier, and behind it a judiciary ready to defend and maintain it. The institutional freedom of a country can have no safeguard so reliable, no protection so strong, as that of a courageous, learned and independent judiciary. It is the sentiment inborn in a people, that prompts it to resist tyranny, but no weapon was ever forged for freedom's hand, that has been so potent in the resistance of tyranny and the conservation of individual liberty, as that found in the judicial system that forms itself in an English speaking community. Brave men in other lands have resisted oppression with superb self-devotion, have shed their blood and sacrificed their lives to achieve a temporary victory, but they have often fallen back and failed to garner the fruits of victory from the want of the instinct that has been given our race to maintain as the "law of the land" the sacred principles of individual freedom, through the instrumentality of a judiciary, whom no power could awe or forces of corruption seduce.

No battles for individual freedom have been more important in their results—indeed, I may say, none have so permanently enlarged the area of human freedom—as those that have been fought by lawyers in the judicial forum. It is counted as one of the chief glories of our profession, that the constant contention carried on by legal minds over fundamental principles, has so fashioned and tested them, that they have become, as it were, stones fitted by judicial hammer and chisel into the enduring fabric of our liberties. What I wish to impress in this connection is, that our judicial system is a growth and development of the civilization of our race, and was not struck out by the hand of man at one blow from the mint of his logical faculties. The judiciary has become an important part of our governmental system, because we cannot do without it. We do not know how to do with-

out it. And the capacity of the people for self-government may well be tested by their readiness to accept and recognize the necessity for judicial tribunals, and their willingness to abide by their decisions fairly made. The integrity of their judiciary, I may safely say, is very dear to all American communities, as it is to all English-speaking communities everywhere. We delight to honor them. The Supreme Court of the United States has been, through all our history, the pride and ornament of our Federal Government. Without it, all will agree that it could never have been successfully carried on—nay, it could hardly have survived the first decade of its existence.

Its career has been illustrated by the splendid intellects, exalted character, civic courage, and great learning of its members. The "great Chief Justice" was only *primus inter pares*, and Taney and Chase and Waite were worthy successors of Marshall; and the names and fame of Storey and Nelson, of Clifford and Miller, of Field and Bradley, to speak only of the dead, belong not only to the Bench, but to the profession which they adorned and honored. Thrice happy the people that can point to such a heritage of courage and character in high place, and thrice happy will they remain, so long as they prize that heritage, and value the institutions which it adorned. Every man who loves the Republic, who cherishes high hopes for humanity, who hates anarchy, and loves liberty, will give his best efforts and highest endeavor to guard and maintain this great tribunal, as the best means of securing the blessings of liberty to ourselves and our posterity.

Its long history is not only stained by no crime, but the brightness of its escutcheon has not even been dimmed by unworthy compliance with the behests of power, or by any swerving in the path of duty, when pressed by the "*civium ardor prava jubentium.*" Individual liberty has been safe in its keeping, and the integrity of our dual

system of government has been maintained when angry partizanship would have wounded or destroyed it.

It has made a democratic republic possible by giving legal expression to the sometimes incoherent cries of freedom, and by crystallizing into law what is held in solution, as it were, in the best and highest thought of the time. In its serene presence, the agitation of a turbulent democracy becomes a healthy alternative for political stagnation, and we can safely prefer the yeasty waves of freedom to the calm sea of despotism.

I have spoken thus far of the growth of a judicial system which has been largely common to this country, and that from which we derived our common law and much of our institutional freedom, but, in this presence, it cannot pass without notice that our Federal and State judiciary have, in a way peculiar to our own conditions, had a co-operative development and growth of their own. All that has been said of the Federal Supreme Court can be well applied to the Supreme Judicatures of the several States. Charged with the administration of the law and the practical realization of justice between men in their everyday life; charged with the enforcement of rights and the remedying of wrongs that grow out of the daily contacts of men in the pursuit of business or of pleasure; supervising all the most intimate relations of life, the great body of our jurisprudence has been moulded under their direction, and has grown and been developed by their forming hands.

But I have only time in this connection for a single thought, and that is that in this country, owing to the happy chance that our separate colonies grew into separate States, each endowed with a sovereignty, which is only qualified by the formation of a general government to which enumerated powers have been delegated, there has been an opportunity for the realization of a local self-government, which theretofore and in other lands has only been the dream of political philosophers. In other

lands its attainment has been attempted by a distribution of powers by a central government down through the communities which were the creation of such government, and were dependent upon it for their existence; while here it has, like all enduring institutions, been the natural product of time and circumstance. The right of local self-government is inherent in the sovereignty of each State, and depends on no power extraneous to itself, and looks to no great central authority except for its guaranteed protection. The States, one and all—the smallest as well as the greatest—stand on the firm ground of their equal sovereignty, as all being charter members of the great corporation of American liberty.

We share in the feeling of exaltation that must have filled the breast of the Apostle Paul when, under sentence to be scourged, the Chief Captain came unto him in great haste, and said unto him: "Tell me, art thou a Roman?" He said yea. And the Chief Captain answered, "With a great sum obtained I this freedom." And Paul said, "*But I was free born.*"

One observation appropriate to this occasion, which I wish to make, is this, that this separateness of the States, each with its independent judiciary, has developed a comparative jurisprudence of which there is no other example in the world. Experiments in government have thus been enabled to be localized, and while one State takes a tentative step, the others can and do stand by to observe and watch and record the result for the benefit of all. The tentative step sometimes proves an advanced step, which is thus safely taken without shock or disturbance of public feeling or existing institutions. A certain healthy rivalry and competition between the States have resulted, and have done much for the common advancement of all. And it must also not remain unsaid that through the discussions had in our State courts and the well considered judgments of State tribunals, no less than in the Federal courts, our dual system of government has

been brought to work harmoniously, so that State and national government, each in its own orbit, without clash or obstruction from the other, have made the experiment of our constitutional government a grand and overwhelming success.

It is such law that challenges the study of the most cultivated minds, and the loyalty of the most patriotic hearts. It cannot be taught by rote. All philosophy, all science, and all the best that human thought has achieved in its pursuit of the truth, are drafted into its service, and contribute to the building of its temple, always growing in beauty and in use, but never completed.

Here on this auspicious occasion we hail the noble University that is giving increased facility for such study of the law, and inviting in increasing numbers our ingenuous youth to enroll themselves among its votaries. Here, in the years to come, will young Americans throng to study the growth, and learn the principles of this great science —not as a means of sordid money getting, but with the enthusiasm, ardor and elevation of spirit that belong to the higher planes of human endeavor, and to the unselfish desire to benefit their country and mankind. Here they will learn the law "whose seat is the bosom of God, and whose voice is the harmony of the world."

"The University of Oxford" was the next toast proposed, in response to which SIR CHARLES ARTHUR ROE spoke as follows:

Mr. Chairman and Gentlemen:

On behalf of the University of Oxford I thank you most heartily for the manner in which you have received this toast. You have expressed the pleasure of the University of Pennsylvania and the Law Societies of Philadelphia at receiving a representative of Oxford. I can assure you most sincerely that Oxford had

no less pleasure in sending one—and that I myself am more than pleased that she sent me. The Republic of Learning is even greater than your own great Republic; it knows no distintion of parties, or even of nationalties. From the infancy of that Republic it has been the custom for members of one University to visit sister Universities, and whether they did so in a representative or in a personal capacity they always received a hearty welcome. The hospitality extended to them may seem poor indeed when compared with what you have so generously lavished on us—but it resembled it in this, that it was the best the entertainers had to give, and it was given heartily.

Although the teaching of an University extends over many—if not all—branches of knowledge and science, the teaching of Law has ever held a foremost place in the Course of Study. It is the opening of its magnificent new buildings for the Law School which the University of Pennsylvania has been celebrating yesterday and to-day, and our hosts to-night are the representatives of those who put teaching into practice. In the papers which have been read in the course of these two days the question has been discussed whether a course of University study—or of what is called practical training in a lawyers office—is the better preparation for those who intend to follow the law as a profession. The surroundings, amidst which I have for some years past been engaged in the administration of the Law in India, differ widely from those of England and America; but I have also, as Vice-Chancellor of the University of the Punjab, had a good deal to do with the formation of Law Schools and courses of teaching, and my opinion—which is, I think, that of Indian Judges generally—is that, although office experience is undoubtedly necessary before actual practice is commenced, it is in the highest degree desirable, if not essential, that it should be preceded by a course of thorough and systematic study of the principles of Law. It is the principle—and above all the spirit of the Law of England—

the principle that no man shall be condemned without a fair trial, and the resolve to do justice between man and man, or bodies of men, which is the common inheritance of all English speaking races throughout the world, which constitutes what is really valuable in Law—and the principle and point we can all unite in upholding, whether our duties lie in the Lecture Room, on the Bench or at the Bar, and whether we are called on to discharge them in America, in Europe or in Asia.

Mr. Gerard Brown Finch in response to the toast "The University of Cambridge," said:

On behalf of the University of Cambridge I thank you for the cordiality with which you have received this toast. It has been a pleasure to me to realize the respect and affection with which the old Universities of England are regarded by the people of this country. But the regard is not one sided; and I wish I could adequately convey to this great assembly the cordiality with which the University of Cambridge accepted the invitation to take part in your rejoicings on the successful accomplishment of this long wished for and most important project.

The University of Cambridge would gladly have sent one of its most distinguished sons, a Judge of the Court of Appeal, but he could not be spared. I venture, however, to say that my friend, Sir Robert Romer, though bringing greater dignity and ability, would not have brought a greater or more sincere goodwill than mine.

In drinking to the welfare of my University you naturally ask how it fares with it in the sphere of work and duty. Does it aid in the advancement of learning? Is it assiduous in the pursuit of truth?

To these questions I can give you an assuring answer. Never was the University of Cambridge doing so

much and such useful work for science or letters as it is doing to-day. But how does it stand in relation to the workers in those arts, the underlying principles of which it investigates? Is there any bridge between our scientists and the industrial workers of England? I am glad to say that the need of this bridge is felt. The remarkable growth and the high status of the Medical School afford an answer on one side of the question; and the establishment of the School of Engineering under the most able direction of Professor Ewing, and the recent creation of a Professorship of Agriculture afford an answer on another.

With regard to the importance of good relations between the peoples of Great Britain and the United States, of which I have heard so much since my arrival here, I personally feel no solicitude. Substantially and in the main we are one people. We have the same ideals. We are alike in our love of freedom and justice. We have the same Common Law, which is at once an emanation from and a moulding force of our race. There is thus a fundamental harmony between the two peoples. Quarrels may confuse this harmony for a time, but it is an abiding influence.

In one of Wagner's great compositions there is a majestic, solemn movement, representing, it might be, the harmony that is in immortal souls. Then sounds of strife and discord, angry and petulant, are heard. But all this time the stately, solemn movement goes on. So it is in the relations of the two peoples. There has been strife; angry contention is sometimes heard. They are but as the discords in Wagner's great work. They do not affect the stately march of that great underlying music, that brings all into harmony with itself.

Mr. Chairman and Gentlemen, I return you my sincere thanks for the manner in which you have drunk the health of the University which I have the honor to represent.

Mr. Hensel next proposed "The University of Pennsylvania," which was responded to by Mr. George Wharton Pepper.

It is a graceful recognition of the place of the University in this community that a toast in her honor should be proposed on this occasion. As you drink to her health I am glad to report that she is well—that she is a hundred and sixty years old, but strong and vigorous and in full possession of all her various faculties. This is not a little wonderful; for one would have expected that under the influence of the college faculty she would have dried up long ago; that the Medical Faculty would have completed her destruction, and that the Law Faculty would even now be quarelling over her estate. Fortunately, this is not the case. Vigorous and healthy as she is, she is giving birth each year to new generations of vigorous and healthy sons (and now and then a daughter or two), and is the only person in the community who realizes the ambition expressed the other day by a small boy of my acquaintance, who said to his mother, "Mamma, when I grow up I'm going to have three hundred children." "What are you going to do?" she asked, "Adopt a Sunday School?" "No, sir," he replied, "I'm going to born 'em all myself." Our Alma Mater "borns them all herself." She individualizes them and watches over them with protecting care. She responds to your call with vivacity and begs to assure you that she will live and work and grow as long as this great community continues to exist.

Much has been said yesterday and to-day of the University's work in law. To this I can add nothing. I propose to speak of her activities in other fields, and to place before you a conception of her relation to the community in which we live.

Like other institutions, the University of Pennsylvania has passed through periods of conspicuous public service and periods of relative obscurity. At all times,

however, her work has been carried steadily forward. At no time, perhaps, has she claimed a larger share of public attention than during the early days of her history in the last century. Philadelphia was then the metropolis. The President and the Congress were here. Commencement day was an event of public importance. President Washington attended and received his LL. D.; Dr. Franklin was much in evidence, watching over the institution in the founding of which, he had taken so deep an interest. Then, as now, generous and public spirited citizens gave abundantly in response to her appeals. In the presence of our distinguished guests from the mother country, it is interesting to recall the fact that George the Third was a liberal patron of the institution, and that the then Archbishop of Canterbury, as well as distinguished dissenting divines, pronounced their blessing upon the institution whose Provost, Dr. Smith, was himself the holder of a degree from Oxford University. It is also interesting to remember that throughout the University's history, cordial personal relations have been maintained between members of her Faculties and of her Board of Trustees and the scholars and literary men of old England.

The sons of the University are not concerned with the question of her relative rank among institutions of learning. There can be no such thing as rank in the world of culture. It is enough for them to know that her work is worthy—enough to observe that each year she is rendering greater services to the community—enough to note in the long list of those who are spreading her fame, such men in the College Faculty as Barker and McMaster, and Patten and Fullerton, and Learned and Doolittle, and Hilprecht and Jastrow—and to see such men in the Medical School as those who are carrying on the work of Agnew and of Leidy; and to perceive that the teachers in the Law School catch inspiration from the scholarly achievements of him who is still with

us as a professor emeritus—our revered and well-beloved Judge Hare. The University of Pennsylvania, my friends, was the first American University to confer degrees in medicine; the first among surviving universities to give instruction in law; the first to plan and organize the graded college curriculum which, for a century, was the basis of instruction in our American colleges, the first to establish a school of finance and economy, and the first to establish a school to investigate the laws of health. It is you who have done these things. All of you, whether you are sons by birth or adoption, have a part in this work. We must see to it that in the future even greater things are done than in the past. There is no way in which you can render a greater service to your community.

Bear with me a moment while I speak of the relation between the University and the community. In old times universities were not always ministers of progress. They were not always found on the side of science. They often espoused the cause of the classes against the masses. They were beholden to rich men. Brains were enlisted on the side of defending existing abuses instead of remedying them. Thank God, there has been a gradual declaration of independence on the part of many of our American universities. To-day they stand forth as champions of the truth. They receive liberal gifts, but by common consent the gifts carry with them no reciprocal obligation to the wealthy donors. University professors are not, and must not be, hampered in their work of investigation. It is a sad day when their teachings are revised on the ground of heterodoxy. Their positions must be secure even if they controvert an accepted rule of Greek grammar or insist upon a revision of an accepted view about the date of a Biblical event, or venture to preach and to teach a method of legal education which is not precisely the same as that which has given us the Nestors of the bar. The University must recognize *truth*

as the ultimate test of all things. She must not stoop to set her mint-mark upon an untruth, or strive to carry it through by the mere force of her authority.

It used to be said that University training unfitted students for the work of life. Very few people would seriously make that contention to-day. Those who do are usually the people who forget that a man's life is not all lived in the counting house—that part of his work consists in facing and solving the great problems of the Here and Hereafter—that he is bound to serve his community as an intelligent and public spirited citizen, and to lend the weight of his character and influence to the conduct of public affairs. Such a man is a *practical* man in the truest sense. He will be ready for all the emergencies of life. You will never catch him off his guard. Probably the revivalist had a university training of whom the story is told that he depicted the terrors of hell in lurid colors and warned his hearers that in hell there should be weeping and gnashing of teeth. An old lady in the front row quickly responded, "That doesn't apply to me—I have no teeth." "Madam," he said with commendable readiness, "teeth will be provided." No, my friends, university men are not the unpractical men. Their training has taught them that if the world is to become better they must pitch in and work for the great result. The unpractical men are those who fondly imagine that the world is to be reformed by eloquent and copious denunciation of those who are sweating in life's struggle; who think that they are serving their country when they pass scathing resolutions condemning the policy of the administration in dealing with a situation which they themselves would make a hopeless mess of—who suppose that attacks on individuals and the use of unkind and untrue and disrespectful language about the President and his advisers are useful contributions to the solution of the problems which we have in hand. Some of them, I believe, are holding a meeting in a neighboring hall

to-night. To-morrow you will see the account of their proceedings in the papers. Do you suppose you will find therein any helpful or practical or constructive suggestion? Not a line—not a word—not a syllable—not an inarticulate attempt to utter a helpful syllable. These people might well learn a lesson from the helpful suggestiveness of a University man who was appealed to by a lady sitting next him at a luncheon. "Oh, sir," she said, "I have just dropped an egg on the floor; what shall I do?"—to which he promptly responded, "Cackle, Madam, cackle."

The duty of the University to the Community is something intensely practical. It is to hold aloft an ideal of education and culture and to strive to realize that ideal in the person of its graduates. The community has a right to subject university men to searching criticism. But it must not be perverse and unintelligent criticism. The University does not pretend that every graduate in Arts is a ripe scholar or that every M. D. is an experienced practitioner or that every graduate in law is a storehouse of legal information. The University in the course in Arts aims to give a rounded development to a young man's mental, moral and even physical nature; to take the conceit out of him; to drive him into the position of a learner; to give him an enthusiasm for the intellectual life. The Law School aims to train a man to think like a lawyer, to catch the spirit of the law's development, to analyze an authority and to determine its significance, to grasp the relation of our law to our political and economic development. If this is accomplished he may be trusted (without further aid from the University) quickly to perfect himself in details of practice and to ascertain by inquiry when it is that jury trials are held in Perry County and whether in Venango a mortgage is discharged by an Orphan's Court sale. University students must be in earnest. There is no place for triflers. The University authorities would not deal lightly with the youth who composed this epitaph

for his own tomb: "An indulgent son, ambitious for his father, he was patient in the pursuit of pleasure."

Your pardon for so long a speech. The subject and the occasion carry me out of myself. I shall not have failed in my purpose if I can convince you that the University of Pennsylvania realizes the weight of the responsibility which is laid upon her in virtue of her glorious past and her opportunities for a still more glorious future. Realizing her responsibility is the first step towards the discharge of it. We are assembled together to signalize the visible result of her effort to do her duty in one of her many fields of activity. Gentlemen of the Philadelphia Bar, I know I speak for the Provost when I say that *you* have made the Law School Building a possibility—a reality. You and the rest of the community occupy a similar position toward all the departments of the University's work. Give her, my friends, your sympathy, your affection, your support. Stand by her in times of adversity. Rejoice with her in this season of prosperity. So shall you encourage her in her patient search for ultimate truth and strengthen her in her ceaseless struggle for a larger measure of culture and of light.

The Toastmaster here departed from the printed program to call on DR. FRANCIS L. PATTON, President of Princeton University, for a few remarks.

President Patton spoke briefly on the relations of the theological and legal professions, and dwelt on the obligation of the American Bar to the universities of the world for the work done by them in fundamental jurisprudence.

"We have come to-day," he continued "to an era when the prevailing question is the social organism. There never was a time when we felt so much that the proper study of mankind is man. We must now consider the relations in which we stand to others, and make the practical application of the moral law in studies of the moral and social relations among new peoples.

"I congratulate the University of Pennsylvania upon its work. I go home jealous to the last degree of your splendid position. I am ambitious that in time soon coming we may rival you in the establishment of a law school on these same lines, and with something like the same kind of equipment."

To the toast "The American Lawyer" MR. JOHN E. PARSONS, spoke as follows:

Many here, no doubt, are familiar with the inscription over the principal portal of St. Paul's Cathedral in London, which commemorates the architect of the building, Sir Christopher Wren, *Si monumentum requiris, circumspice.* If you would seek his monument behold, the toast "The American Lawyer" to which I am to respond here answers itself. The American Bar can furnish no more representative assemblage than is gathered together in this place. All that is illustrious is represented by my brothers of the profession and by the distinguished judges who have graced this occasion with their presence. If one would know about the American lawyer, here are illustrations. Study their careers. Become familiar with their characteristics.

To such I can say little, if anything, which does not come to your minds when you consider the noble science to which you have devoted your lives and recall that the history of the profession to which you belong goes back to the remotest antiquity, and that in its membership have been enrolled names of the most useful and distinguished men of ancient and modern times. It is essential to the regulation of society that there shall be a system of law and that it shall rule and regulate the transactions of men; furnish security and protection; to which all, rich and poor, high and humble, may appeal with full confidence that by it their rights will be protected and their wrongs redressed. The law is superior to force. It is stronger than the caprice of sovereigns. And as it is essential to

its well-being that society shall be governed by such a system, so does it follow that there shall be a class upon whom shall be put the responsbility of representing those whose interests, whether of life or of property, shall be at stake, and who shall devote time and talent to fit themselves to render just such service.

It is of the American lawyer that I am to speak. As an American lawyer, I must avoid anything like vainglory or unsuitable eulogy of the profession or of its members. The late distinguished Lord Chief Justice of England, Lord Coleridge, in his farewell address in New York on the occasion of his visit here, in contrasting his country with ours made little reference directly to England. His illustration of true greatness was taken from Holland, of which he spoke as a land rescued from the sea by the labor and intelligence of its inhabitants, and made a model of what could be accomplished by industry, intelligence and patriotism. The minds of his hearers were left to cross the Channel, and in thinking of the achievements of the country that was mentioned, to picture the greater achievements of the country that was not. And so, perhaps, in any attempt to portray the American lawyer, it may not be amiss first to say a few words about the lawyers of England and France, between which countries and ourselves the relations have been the closest. Naturally our thoughts turn first to England. The story of its administration of the law and of its lawyers is preserved from the time of the Conqueror and before. It has been illuminated by some of the grandest names in English history. What lawyer can ever forget Eldon and Erskine, Hardwicke and Thurlow, the great Lord Mansfield, Lord Somers, Sir Matthew Hale, Sir Edward Coke? The list is endless. Lord Campbell has made us acquainted with their characteristics, their peculiarities of mind and temper. History tells of the achievements of these noble men. To a notable career at the Bar most of them added invaluable

service upon the Bench. And yet there is little similarity between the American lawyer and an English barrister, and less similarity between an American lawyer and an English attorney or solicitor. The division of the profession into the two ranks creates a radical difference. Whether the system is wise or unwise by comparison with ours has been a fruitful subject of discussion. It is not easy to pronounce an absolute judgment in favor of one system or the other. I have no doubt that it is in the interest of those who practice law that there should be no such division.

Mr. James Grant in his book on the Bench and Bar, published in 1838, says that at that time the number of gentlemen belonging to the English Bar was nearly 6,000; that of that number there were 1,500 whose names were upon the law list; and yet that not more than perhaps seventy or eighty had anything to do worthy of the name of business. Nothing is more agreeable than the professional life of a successful barrister in London. His income is assured, his fees are paid in advance. Mr. Grant describes his income at that time as princely. It might reach to as high as six to eight thousand pounds, and in exceptional cases to even twelve thousand. But I confess that my sympathy has always been with those other members, to whom a guinea fee was a God-send, and who, having dined themselves into the profession, soon reached a time when for them a dinner was impossible from the profession.

I have often been in the English courts. I have witnessed the conduct of cases by such distinguished lawyers as Hawkins, Karslake, Coleridge, Henry James, Roundell Palmer, Sir Richard Webster. They are profound in their knowledge of the law; convincing in argument; admirable in the directness and succinctness with which they go to the heart of their subject. But so far as concerns the interests of clients, I do not think that we need to fear in a comparison between them and the lead-

ing members of the profession here. The relegation to solicitors and attorneys of the responsible preparation of the case frequently results in a want of original familiarity with it by the barrister who is to conduct it. I think that the lawyers here will agree with me that to insure success, as far as possible the case should be thoroughly understood from the beginning and that what is possible should be known by the lawyer of the case of his adversary.

We are apt to concede to the English Bar a more elevated standard of professional ethics than we claim, by and large, for ourselves. It may solace us to remember that while England has furnished to the profession some of its noblest members, ignoble names too have crept into its ranks. In England there was a Jeffries.

My friend and predecessor as President of the Bar Association of the City of New York, Mr. William Allen Butler, in his little pamphlet of "Lawyer and Client," in speaking of the disrepute into which the profession had fallen not long after Hampden and his noble band had fought their battle for English liberty and constitutional law, refers to tracts which were then being issued from the press with such titles as these: "The Downfall of Unjust Lawyers," "Doomsday Drawing Near," "The Thunder and Lightning for Lawyers" (1645, by John Rogers), "A Rod for the Lawyers" (1659, by William Cole). It was of English lawyers that these tracts were written. And for the matter of that, the opprobrium which at times has visited the profession has come largely from such great names in English literature as those of Milton, Wadsworth and Dean Swift, and they only echo what Juvenal had said centuries before.

Mr. Butler repeats Ben Johnson's epitaph on Justice Randall as condensing in a couplet the popular estimate of the profession:

> God works wonders now and then,
> Here lyes a lawyer, an honest man.

The history of the law and of lawyers in France extends to the time when Gaul was a Roman province. There lawyers have played a more important part in public affairs than has ever been the case in England. French writers claim for their lawyers greater brilliancy of eloquence than consorts with our more plain, direct and practical Anglo-Saxon mode. I have occasionally been in the French courts. While doubtless they reach accurate results, their system is so unlike ours that they do not appeal strongly to me. Napoleon had frequent occasion to employ lawyers. To them in principal part he owed the Civil Code, with which his name will always be associated; and yet he entertained the feeling of indifference or antipathy which I have often met in France towards her lawyers, save in the case of a limited number of exceptional distinction, who have been as prominent, if not more prominent, out of the profession than in it.

Louis XVI selected for his trial two lawyers. Turgot, in a public lettter to the *Moniteur*, excused himself in terms which revealed the extreme of pusillanimity. Tronchet stood by the king; and to the credit of the profession everywhere, and in vindication of the French bar from criticism, which is prone to be carping, it should always be remembered that Malesherbes, at seventy-one, volunteered to defend the king, although it brought him to the scaffold, and that De Sèze stood by his royal client with a boldness and courage which left nothing to be desired, saving himself by flight.

I must not forget that it is of the American lawyer that I am to speak. How does he rank with his brethren across the sea? Standing here one must remember that if the founder of Pennsylvania had had his way, either there would be no profession of the law, or its members would be in sorry plight. "Peace-makers" were the functionaries upon whom William Penn preferred to rely to adjust the differences which would arise, even in a community which was composed chiefly of Friends.

From the earliest period it was necessary that from such a tribunal there should be an appeal to a regularly constituted court.

The late Mr. David Paul Brown, in his work, the "Forum," gives the history of the establishment of the Pennsylvania Courts, of their development, and mentions many of the distinguished names—Shippen, Willing, McKean, Dallas, and a numberless list of others whose achievements have made of Philadelphia lawyers a distinct class.

When we recall such lawyers as Jay and Hamilton, Webster and Wirt, Choate, Marshall and Story, Henry and Lowndes, the late Mr. O'Connor, the late Judge Benjamin R. Curtis, Black and Butler, and the distinguished Philadelphians whom I have mentioned, we must be sensible that the standard of the profession among us has been high, and that, without boastfulness, we may claim that the American lawyer stands well in comparison with the lawyers of England and of the Continent. It has never seemed to me that those who aspire to become members of the Bar need fear, because they are sensible that they do not possess the highest order of intellectual endowment. Few in any walk of life do. The fable of the hare and the tortoise is often illustrated among lawyers. Mere brilliancy will make a lawyer neither useful to his client nor successful in his practice. Absolute integrity, fidelity to those who entrust him with their interests, a conscientious bestowal of his best efforts to the work in hand—these are the characteristics which, in my judgment, will give to an American lawyer a creditable career, even if he fails to reach the highest rung of the ladder.

A bill in the Legislature of my State is being opposed by our Bar Association. It might read "An act to make John Smith a lawyer." I do not need to tell you that the John Smith of the bill is a leading politician ambitious to enter the ranks of the profession from the humbler

position which he now occupies. In no such way can a lawyer be made. Work—earnest, steady, untiring work—is essential to turn the ordinary man into the ordinary lawyer. But my experience of the past forty years assures me that, if there be this willingness to work, the aspirant for professional success does not need to fear. I claim for the profession in America a high degree of moral excellence. To no members of society come the same temptations; none have the same opportunity of benefitting themselves at the expense of others. During the last forty years I have been acquainted with a large proportion of the large number of lawyers in New York. I can remember only four occupying anything like a prominent position, who, in yielding to temptation, have been untrue to themselves and to the profession.

In no other place is the public life of a country so dependent upon lawyers as with us. From the formation of the government they have controlled in the Houses of Congress, in State Legislatures, in public place. Here there is a marked difference as compared with England. It has often been remarked that lawyers have not been a success in the House of Commons. In America legislative action and the conduct of the government are largely dependent upon them. From my own observation and experience, I claim for the members of the Bar that they will be found in the forefront of movements for reform, that in the main they may be depended upon to be on the right side in public matters. The interests of the State are largely dependent upon the American lawyer. The interests of his clients are absolutely dependent upon him. Whether it is the fee which he receives or the public duty which he recognizes, the American lawyer is committed to a course of truth, fidelity and uprightness. It is easy to sneer. We who belong to the profession have the right to take pride in the fact that we are American lawyers.

The last toast of the evening was "The Philadelphia Lawyer," to which MR. RICHARD C. DALE, of the Philadelphia Bar, responded as follows:

The Philadelphia lawyer has the incentive of a great past. The pacific temper of the founder of this Commonwealth gave no intimation that the City of Brotherly Love would be the first home of the American lawyer.

In the body of laws framed in England for the colony in 1682 it was provided:

"That in all courts all persons of all persuasions may fully appear in their own way, and according to their own manner, and there personally plead their own cause themselves, or, if unable, by their friend, with the further requirement that

"Before the complaint of any person be received he shall solemnly declare in court that he believes in his conscience his cause is just."

This attempt to conduct the controversies of the community without the aid of a trained Bar soon demonstrated its inherent impracticability. In the earliest State Constitution of 1776 we find the lawyer recognized in the clause:

"That in all prosecutions for criminal offences a man hath a right to be heard by himself or his counsel."

But long before the Constitution of 1776 the Philadelphia lawyer made himself heard. In 1735 Andrew Hamilton, called by Gouverneur Morris "The Day Star of the American Revolution," was summoned from Philadelphia to defend before the Provincial Court of New York John Peter Zenger, indicted for a seditious libel against the Governor General of the province. Declining any fee for his services, he was presented with the freedom of that city in a gold box.

Referring to Hamilton's defence of this case Mr. Binney says:

"It is worth remembering, and to his honor, that he was half a century before Mr. Erskine and the declara-

tory act of Mr. Fox in asserting the right of the jury to give a general verdict in libel as much as in murder, and, in spite of the Court, the jury believed him, and acquitted his client."

The courage, vigor of thought and eloquence of Andrew Hamilton marked an era in colonial history, and the sentiment with which he closed his great address to the jury is worthy of perpetual preservation:

"The liberty both of exposing and opposing arbitrary power by speaking and writing truth."

Andrew Hamilton shortly after this trial became a Judge of the Admiralty for the province of Pennsylvania, and upon his death was succeeded by Tench Francis, of whom it was said by Chief Justice Tilghman in Lyle *v.* Richards:

"In the year 1745 it was supposed that Mr. Francis was the most eminent lawyer in Pennsylvania. He appears to have been the first of our lawyers who mastered the technical difficulties of the profession. His precedents of pleadings which have been handed down, and his common law book, are evidence of his great industry and accuracy."

The records, however, of the Colonial Bar are so meagre that Mr. Binney, in his "Reminiscenes of the Old Bar," began the history of that Bar with the men who were its leaders after the Revolution, saying:

"Of the primitive Bar of the province we know nothing, and next to nothing of the men who appeared at it from time to time up to the termination of the Colonial Government." We may be certain, however, that even before the Revolution its standard of learning was high and its character is evidenced by the men who were leaders immediately after.

Upon the adoption of the Federal Constitution, the Supreme Court of the United States held its sessions in Philadelphia until 1798. The reports of its decisions, as found in the volumes of Dallas, show that during these

early years a large majority of all the cases were presented by Philadelphia lawyers. William Lewis, Edward Tilghman, Jared Ingersoll and the elder Rawle appear in continuous reiteration. These were the men who gave to the name of Philadelphia lawyer that peculiar tone which we hope will always be theirs. Of Edward Tilghman it was said by Judge Duncan:

"That he could untie the knots of a contingent remainder or executory devise as familiarly as he could his garter." And yet Mr. Binney was able to say of him, also:

"With juries he was nearly irresistible. He talked to the panel as if he were one of them."

Of Jared Ingersoll, Mr. Binney referring to the fact that he and Mr. Sergeant had been students in Mr. Ingersoll's office, said:

"A name that I can never mention without the profoundest veneration, as my master and guide in the law."

After such praise from such a source nothing more can be added.

When the Supreme Court was removed to Washington we find the Philadelphia lawyer continuously appearing, and until 1835, Horace Binney, John Sergeant and Joseph Hopkinson, the leaders of the second generation, held a prominent place in the great arguments before that court.

With the growth of population, the establishment of new centers of industry and learning, the legal business of the country localized, and no city bar could gather to itself the litigation of a nation, but the Bar of Philadelphia still maintained its high standard.

At the end of the century as we look back at the galaxy who from 1830 to 1880 maintained the succession —the men at whose feet we sat—we understand how it has earned for the Philadelphia lawyer a name which opens for him with a welcome the doors of every court house from Maine to Oregon and Texas.

To the Bench and Bar of the jurisdictions gathered with us to-night, I tender the thanks of the Philadelphia lawyer for this welcome.

The relations which have existed between the Seniors and Juniors of the Bar through these successive generations have happily been most intimate. The accumulated wisdom and experience of years has been freely placed by the sages at the command of every eager aspirant. This tradition of true learning could never have been found in the books, and from it, and the habits of thought consequent, much of the distinction of this Bar has come. Mr. Binney gives testimony to it in his reminiscences, saying:

"A lawyer who has passed his youth and early manhood in the society of such men is the happier for it through life, and especially in old age."

We have heard from the older generation how in their youth Mr. Binney paid to his juniors the debt incurred through his relations with what to him was the "Old Bar," and the great majority of those present here to-night have themselves the most vivid appreciation of my meaning, for the same debt was repaid to this generation in the amplest measure by Judge John Cadwalader, George W. Biddle and Richard C. McMurtrie.

The Philadelphia lawyer has had fame not only for learning. The traditions of the Bar have required every man who claims the name to recognize the obligations which membership in the profession entails.

The Philadelphia lawyer, as he has been known, as we hope he will always be known, is the member of a profession, an officer of the law. The only service he undertakes is the service of the law. While there is no degree "Sergeant at Law," we claim to be *servientes ad legem!* We avouch our allegiance to one jealous mistress, and know no other master. Clients stand to us as they did in the days of ancient Rome, persons seeking our protection, but never entitled to command our actions.

They may require us to invoke the law in their aid; they may never demand that we nullify any law for their advantage. Standing on this plane, we may be ever mindful of our oath of admission.

"With all fidelity to the Court, as well as to the client."

I opened by saying the Philadelphia lawyer has the incentive of a great past. That there may be a great future is the cherished hope of every man here to-night. For the fulfillment of that hope we chiefly look to the school, which now enters upon a new era. The names of the great Philadelphia lawyers of the past have fittingly been identified with the new building. May we not anticipate that their mantle will fall upon those to whom will be committed the name and fame of the Philadelphia lawyer for the century that is to come?

As the company was about to disperse, the toast-master called upon Mr. Wu Ting-Fang for a speech. Mr. Wu protested that it was not fair to ask him to address the company. Confucius, the great Chinese sage, had said that a person should not talk at dinner. Being a follower of Confucius, he felt himself bound to observe his doctrine, but, being a lawyer, and as the company were then smoking, and not eating, he supposed he would be justified in breaking silence.

Mr. Wu then spoke for a few minutes, in his inimitable style, and concluded by proposing the health of the toast-master; after which the company dispersed.

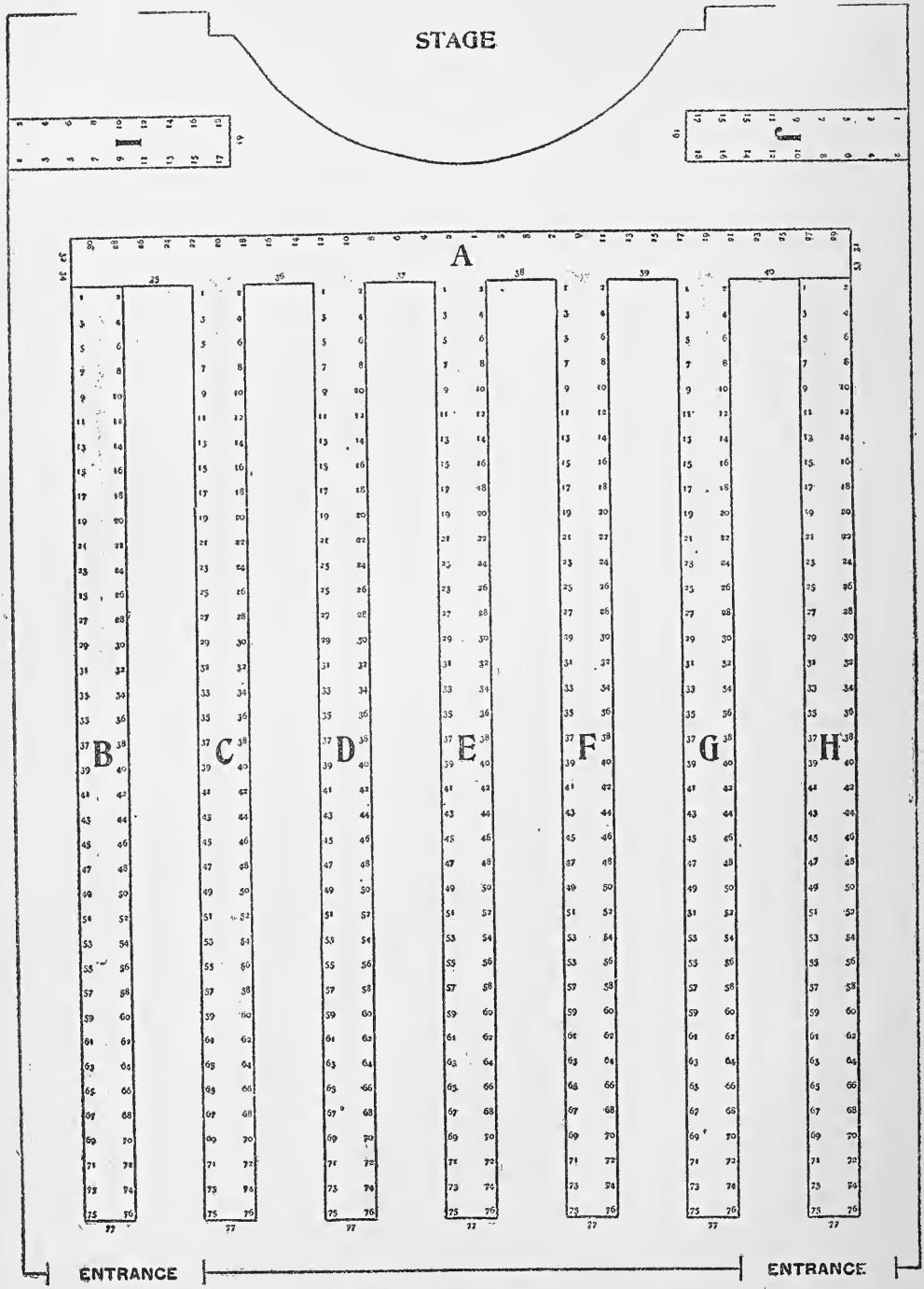

DIAGRAM OF TABLES AND SEATS IN HORTICULTURAL HALL, SHOWING LOCATION OF GUESTS.

A

His Excellency
Senor Don Manuel De Arpiroa E 3
President C. K. Adams . . . . E 76
Professor James Barr Ames . . . A 23
President James B. Angell . . . A 24
Honorable Robert W. Archbald . B 31
Honorable E. A. Armstrong . . F 24
Honorable Michael Arnold . . . B 11
Professor Clarence D. Ashley . D 22
Honorable Charles N. Anderegg B 11
Honorable William N. Ashmun . G 75
Mr. John Adams . . . . . F 63
Mr. John S. Adams . . . . . F 41
Mr. Francis Cope Adler . . . . A 43
Mr. Harry M. Albertson . . . . H 60
Mr. James Alcorn . . . . . D 30
Mr. Lucien H. Alexander . . . D 52
Mr. Edward P. Allinson . . . . B 9
Mr. Edward A. Anderson . . . . E 47
Mr. James B. Anderson . . . . H 62
Mr. William V. C. Anderson . . E 61
Mr. J. K. Andre . . . . . D 2
Mr. Pierce Archer . . . . . E 13
Mr. Richard L. Ashhurst . . . G 77
Mr. O. C. Allen . . . . . G 61
Mr. Josiah R. Adams . . . . . F 45

B

Honorable Simeon E. Baldwin . A 15
Honorable J. Hay Brown . . . . D 2
Honorable Joseph Buffington . . C 1
Honorable James A. Beaver . . . G 1
Honorable A. V. Barker . . . . E 18
Honorable Abraham M. Beitler . F 75
Professor Samuel C. Bennett . . B 21
Honorable Edward W. Biddle . . B 15
Professor Philip M. Bikle . . . G 19
President William W. Birdsall . C 19
Honorable Theodore Bentley . . F 1
Honorable O. B. Beciteel . . . E 17
Mr. R. Loper Baird . . . . . H 48
Mr. Thomas W. Barlow . . . . . G 45
Mr. J. Hampton Barnes . . . . . E 35
Mr. Norris S. Barrett . . . . . D 18
Mr. Lewin W. Barringer . . . . H 43
Mr. James M. Beck . . . . . H 26
Mr. J. Clode Bedford . . . . . A 43
Honorable Dinner Beeber . . . D 11
Mr. John C. Bell . . . . . C 29
Mr. Charles Biddle . . . . . B 49
Mr. Cadwalader Biddle . . . . . G 13
Mr. Frederick D. Biddle . . . . G 67
Mr. Louis A. Biddle . . . . . H 66
Mr. Charles C. Binney . . . . . H 69
Mr. George Tucker Bispham . . C 77
Mr. Edgar S. Black . . . . . D 59
Mr. Lynford Biddle . . . . . E 54
Mr. Edward H. Bonsall . . . . F 25
Mr. Francis H. Bohlen . . . . . F 5
Mr. James R. Booth . . . . . H 55
Professor Henry S. Borneman . D 57
Colonel Wendell P. Bowman . . G 56
Mr. Peter Boyd . . . . . F 47
Mr. F. B. Bracken . . . . . G 60
Mr. Louis Bregy . . . . . C 55
Mr. Frederick L. Breitinger . . H 52
Mr. Frank F. Brightly . . . . . D 65
Mr. Joseph Hill Britton . . . . B 48
Mr. Joseph J. Brodhurst . . . . D 43
Mr. Clarence M. Brown . . . . . B 56
Mr. Francis Skunk Brown . . . . F 77
Mr. Henry P. Brown . . . . . F 51
Mr. William Findley Brown . . . F 71
Mr. William H. Browne . . . . . C 6
Mr. F. Pierce Buckley . . . . . D 45
Mr. John C. Bullitt . . . . . A 34
Mr. Duncan L. Buzby . . . . . H 65
Mr. George F. Baer . . . . . C 8
Mr. George R. Bedford . . . . . E 14
Mr. Frederick Bertolette . . . . C 47
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MEMORIALS AND INSCRIPTIONS IN THE NEW BUILDING.

On Saturday, November 4, 1899, the Joint Committee appointed for the purpose of selecting the names of men to be commemorated on the various medallions and shields on the outer walls of the Law School Building held its first meeting. This body was composed of the members of the Committee of the Board of Trustees on the Department of Law and Legal Relations and of the Committee of the Faculty of the Department of Law on the opening of the new building. The members of the Joint Committee who represented the Board of Trustees were: Mr. Samuel Dickson, the Chairman, Mr. John B. Gest, Mr. Samuel W. Pennypacker, Mr. Joseph G. Rosengarten and Mr. Walter George Smith. Mr. George Wharton Pepper, Mr. Hampton L. Carson and Mr. William Draper Lewis represented the Faculty of the Department of Law. Lists of names of men to be commemorated, and plans of distribution and situation were submitted by several members of the Committee. After a number of meetings and a mature discussion of these suggestions, it was determined to request the Provost to submit the several lists and plans to the Honorable John I. Clark Hare, Emeritus Professor of Law in the University. Subsequently Judge Hare submitted a list of names designating in what medallions and shields they should be carved and the order in which they should come, which list was adopted by the Committee with but slight alterations.

The following names were carved upon the medallions and shields which ornament the exterior of the new building.

ON THE THIRTY-FOURTH STREET FRONT.

In the three Southern medallions, running South to North:—

BLACKSTONE **KENT** **MANSFIELD**

In the three Southern shields, running South to North:—

MADISON **HAMILTON** **WEBSTER**

In the three Northern shields, running South to North:—

GIBSON **TILGHMAN** **BINNEY**

In the three Northern medallions, running South to North:—

STORY **MARSHALL** **TANEY**

ON THE CHESTNUT STREET FRONT.

In the central medallion:—

VATTEL

In the central (Western) shield:—

STOWELL

In the central (Eastern) shield:—

GROTIUS

In the three Eastern shields, running East to West:—

BLACKBURN **FIELD** **BRADLEY**

In the three Western shields, running East to West:—

ELDON **HARDWICKE** **JESSEL**

ON THE SANSOM STREET FRONT.

In the central medallion above the Sansom Street entrance:—

EDWARD I.

In the central (Eastern) shield:—

COKE

In the central (Western) shield:—

BRACTON

In the three Eastern medallions, running from East to West:—

HOLT **CAMDEN** **HALE**

In the three Western medallions, running from West to East:—

TRIBONIAN **JUSTINIAN** **GREGORIUS**

ON THE WESTERN WALL.

In the three medallions of the South wing, running from North to South:—

GAIUS **PAPINIAN** **ULPIAN**

In the three medallions of the North wing, running from North to South:—

POTHIER **DOMAT** **SAVIGNY**

On the shield South of the main entrance is the following inscription:—

LAW
DEPARTMENT
OF THE
UNIVERSITY
FIRST PROFESSOR
JAMES WILSON
1790

On the shield North of the Main entrance:—

LAW
DEPARTMENT
OF THE
UNIVERSITY
REORGANIZED BY
GEORGE SHARSWOOD
1850

The following are copies of memorial tablets and inscriptions throughout the interior of the building :—

ON THE FIRST FLOOR.

On the Western wall of Price Hall, a tablet in bronze :—

PRICE HALL

ERECTED IN MEMORY

OF

ELI KIRK PRICE, LL. D.

A TRUSTEE OF THE UNIVERSITY

1869-1884

PRESIDENT OF THE UNIVERSITY HOSPITAL

1879-1884

AND OF HIS SON

JOHN SERGEANT PRICE

PRESIDENT OF THE CENTRAL COMMITTEE

OF THE

ALUMNI OF THE UNIVERSITY

1882-1897

PRESIDENT OF THE SOCIETY OF THE ALUMNI

OF THE

DEPARTMENT OF LAW

1890-1897

On the Western wall of Wharton Hall a tablet in bronze:—

THIS ROOM IS DEDICATED
TO THE MEMORY OF
GEORGE M. WHARTON
1806-1870

ON THE SECOND FLOOR.

A tablet in plaster on the South wall of McKean Hall above the centre of the stack room entrance :—

THIS ROOM IS DEDICATED
TO THE MEMORY OF
THOMAS McKEAN
CHIEF JUSTICE OF PENNSYLVANIA
1777-1799

A tablet in plaster on the North wall of Sharswood Hall above the centre of the stack room entrance :—

THIS ROOM IS DEDICATED
TO THE MEMORY OF
GEORGE SHARSWOOD
CHIEF JUSTICE OF PENNSYLVANIA
1878-1882

A tablet in plaster on the west wall of McMurtrie Hall above central door of the stack room :—

THIS ROOM IS DEDICATED
TO THE MEMORY OF
RICHARD C. McMURTRIE
CHANCELLOR OF THE
LAW ASSOCIATION OF PHILADELPHIA
1891-1894

A tablet in bronze set into the floor of the stack room at the main entrance to the Biddle Law Library:—

THIS LIBRARY WAS FOUNDED IN 1886
IN MEMORY OF
GEORGE BIDDLE
AND CONTINUED IN 1891 IN MEMORY OF
ALGERNON SYDNEY BIDDLE
AND IN 1897 OF
ARTHUR BIDDLE
THE THREE SONS OF
GEORGE W. BIDDLE
THEY DIED BEFORE THEIR FATHER, HAVING LIVED
AS BECAME THEIR HIGH CALLING OF THE LAW,
TRUTH, COURAGE, HONOUR, LOVE AND DUTY THEIR GUIDES.

On the walls of the central hall are seven tablets, of Tennessee marble. The inscriptions on these are as follows :—

JAMES WILSON
1742-1798

JOHN SERGEANT
1779-1853

WILLIAM M. MEREDITH
1799-1873

ROBERT COOPER GRIER
1794-1870

ST. GEORGE TUCKER CAMPBELL
1814-1874

GEORGE W. BIDDLE
1818-1897

JAMES E. GOWEN
1830-1885

Upon the four walls above the main staircase are inscribed these words :—

THE LAW IS UNKNOWN TO HIM THAT KNOWETH NOT THE REASON THEREOF, AND THE KNOWNE CERTAINTIE OF THE LAW IS THE SAFTIE OF ALL :—COKE.

JAMES WILSON, LL.D.
First Professor of Law.

From the Original, Painted by Albert Rosenthal for the Law School in 1899, from a minature in possession of Thomas H. Montgomery.

HISTORY OF THE DEPARTMENT OF LAW.

COMPILED BY

MARGARET CENTER KLINGELSMITH.

The old academy of Philadelphia was restored to all its rights and privileges by the Act of 1789, and among the students an association was formed for the study of the law. They were without a teacher or any regular course of study, but had attracted to themselves the notice of the trustees of the Academy by a request that they might hold their meetings in one of the rooms of the college. This request, made in 1789, was granted, and the fact that a regular course in the study of the law was needed became manifest. Mr. Charles Smith, editor of the edition of the early laws of Pennsylvania, now known as Smith's Laws, applied to the trustees of the college for an appointment to a professorship of the law in that institution. A few days after the communication was received it was decided to present to the monthly meeting, among other matters, "An application for a law professorship, the propriety of establishing a Law Lecture, and conferring degrees in law." A committee was appointed consisting of Messrs. Shippen, Wilson and Hare, who reported a plan said to have been drawn up by Mr. Wilson. This plan was accepted by the trustees, and upon it the foundations of the school were laid. It certainly cannot be criticised as too narrow. It placed before the minds of those who were to establish and carry on the work a wide and high ideal. The plan in full was as follows: "The object of a system of law in this country should be to explain the Constitution of the United States, its parts, its powers and distribution, and the operation of those powers; to ascertain the merits of that Constitution by comparing it with the Constitution of other states, with the general principles of government,

and with the rights of men; to point out the spirit, the design and the probable effects of the laws and the treaties of the United States; to mark particularly and distinctly the rules and decisions of the federal courts in matters both of law and practice.

"To examine legally, critically and historically the constitutions and laws of the several states of the Union; to compare those constitutions and laws with one another, and with the general rules of law and government; to investigate the nature, the properties and the extent of that connection which subsists between the federal government and the several states, and, of consequence, between each of the states and all the others.

"To illustrate the genius, the elements, the originals, and the rules of the common law, in its theory and its practice, to trace as far as possible that law to its foundation, its fountains, to the laws and customs of the Normans, the Saxons, the Britons, the ancient Germans, the Romans, and perhaps in some instances the Grecians.

"Under this head it is to be observed that the common law, in its true extent, includes the law of nations, the civil law, the maritime law, the law merchant, and the law too of each particular country, in all cases in which those laws are peculiarly applicable. All the foregoing subjects of discussion should be contrasted with the practice and institutions of other countries. They should be fortified by reasons, by examples and by authorities; and they should be weighed and appreciated by the precepts of natural and revealed law.

"The obvious design of such a plan is to furnish a rational and an useful entertainment to gentlemen of all professions, and in particular to assist in forming the legislator, the Magistrate and the 'Lawyer.'"

It was resolved that a professorship of law be established whose incumbent should deliver twenty-four lectures each year. James Wilson was elected by unanimous choice to be the professor to occupy the newly created

chair. It is not known if any action was taken by the trustees in regard to the offer of Mr. Smith. It has been claimed that much injustice was done him by this apparent neglect, but as there are no records to appeal to in the case it seems impossible to substantiate or refute the charge. The choice of James Wilson certainly seems to have been a most wise one. A recent writer (Francis Newton Thorpe) says of him:

"Of all the men chosen to make the national Constitution, he was the only one who understood and advocated the national idea as it has been understood and advocated since the Civil War. His place in the evolution of American democracy has been but slightly recognized and his just fame has been delayed. There were more popular men in the Convention than he, and at least a score then more famed. In the old Congress he had constantly advocated a more perfect Union, but his services there, like those of many others, were obscured by the waning influence of the Articles. He was known to the leaders of thought in the country, but his reputation among the people was limited almost wholly to those of the city in which he lived. Even his later distinguished career as Professor of Law in the University of Pennsylvania is now quite forgotten. If a man's greatness is commensurate with the value of his ideas to mankind, the national ideas advanced and advocated by Wilson place him among the most eminent Americans of the eighteenth century and entitle him to the veneration of his countrymen."

The statement, that his career as Professor of Law in the University is forgotten, is slightly exaggerated, as in the Department which he founded his memory is highly honored and deeply respected; his portrait hangs in the most prominent place which can be given to it, and all who are conversant with the history of the Department know of its founder and the work he did.

Great expectations were aroused by the announcement

that he would open the course of lectures December 15th, 1790, in the hall of the Academy, which was then situated on Fourth street below Arch. This hall occupied the entire width of the building and was about ninety feet in length; across the south end there was a gallery, and the rostrum was against the north wall over the stairway. Unless the gallery was larger than can reasonably be supposed the, "citizen" of that day must have been almost entirely excluded from attendance upon the interesting event, as the advertisement of the lecture which appeared in the "Pennsylvania Packet and Daily Advertiser" of December 15th, 1790, ran as follows:—

"College of Philadelphia, Wednesday, Dec. 15. Law Lecture. The Honorable Judge Wilson's Introductory Lecture will be delivered this evening at six o'clock in the College Hall. Those citizens who have received tickets of admission from Mr. Wilson are requested to take their seats in the gallery, it being necessary to appropriate the lower part of the Hall to the accommodation of Congress and other Public Bodies who are cordially invited.

By order of the Board of Faculty,

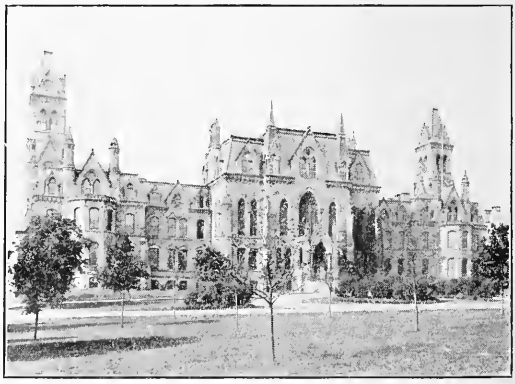
WILLIAM ROGERS, Secretary."

The reservation would seem, however, to have been necessary, as President Washington with Mrs. Washington attended the lecture, as did the members of the cabinet, the Houses of Congress, the executive and legislative departments of the State of Pennsylvania and the city of Philadelphia; the judges of the courts and the members of the bar, with many of the women who led the brilliant society of the little capitol. It was a most fashionable audience which awaited the modest lecturer, who seemed somewhat startled to find himself the center of a brilliant society occasion when he had anticipated only an assembly of sober persons prepared to listen to a quiet homily upon the law. He was equal to the occasion, however,

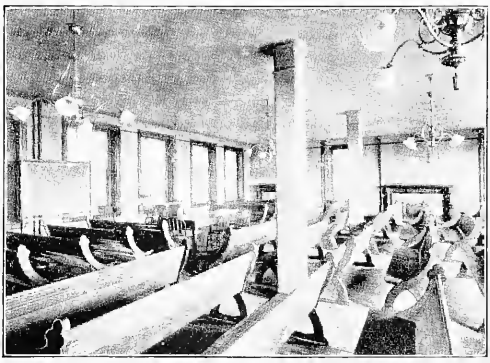
THE ACADEMY—1790-1802.

"PRESIDENTIAL MANSION"—NINTH AND CHESTNUT STREETS. 1802-1829.

RTS BUILDING—NINTH AND CHESTNUT STREETS. 1829-1873.



COLLEGE HALL,—1873-1888.



QUARTERS IN GIRARD BUILDING—1888-1895.

"CONGRESS HALL"—1895-1900.

HOMES OF THE LAW SCHOOL 1790–1900.

and his lecture was received with much appreciation and was frequently quoted in the literature of the times.

In his struggle to cover the ground he himself had outlined, his lectures became rather dissertations upon law than an attempt to teach the law in its more technical acceptation. Philosophical and elegant, they were well adapted to interest the minds that he found around him, and it may be questioned if he did not give to his students mental food as well fitted to strengthen their minds as much of that which they receive under the very different methods which obtain to-day. This first course, as outlined, was to cover three years, the lectures were delivered on three days of every week at six o'clock, p. m., and there were law exercises every Saturday. The first course was carried to a successful conclusion but the second course was not finished. It has been suggested that the small attendance caused by the required fee of ten guineas was the cause. However that may be the course was not concluded, and, although after the union of the college with the University, by a resolution of April 3, 1792, the trustees created a professorship of law and appointed Mr. Wilson to occupy the chair, the lectures were not delivered. Owing to the unfinished nature of the course no degrees were conferred during the incumbency of Judge Wilson. He died in 1798 at the age of fifty-six, after a career full of honors honorably gained.

From 1791 to 1817 the statute of the University declaring that "there shall be a professorship of law" was a dead letter. No such professor was appointed, and we find no resolution asking for one nor any attempt to revive the lectureship until January 7, 1817, when the faculty resolved to receive at the next stated meeting of the Board nominations for the professorship of law. No action was taken, however, until March 17, 1817, when the trustees elected Charles Willing Hare, Esq., professor. He delivered his introductory lecture in April of that year. At that time the University was occupying

the site on Ninth street, between Market and Chestnut streets, to which it had removed in 1802 after outgrowing the old quarters on Fourth street. The building on Ninth street was an imposing structure which had been destined by its builders for the dwelling of the President of the United States when it was supposed that Philadelphia was to remain the capital of the country. It was a building of much greater pretensions than the little old Academy in which James Wilson delivered his lectures, but Philadelphia was no longer the capital and could not furnish to the lecturer so brilliant an assembly of distinguished listeners.

The first course, as outlined by Mr. Hare, was upon "Natural Jurisprudence, or the science of right and wrong as discovered by human reason, compared with, illustrated by, and embodied in the law." The second upon "International Jurisprudence, or the laws which regulate the intercourse of nations, the elements of sovereignty, the different forms of government, and particularly the theory and practice of the constitutions of the United States and of the State of Pennsylvania," and the third was upon the "Jurisprudence of the United States and of Pennsylvania, as distinguished from the common law of England." Unfortunately the elaborate outline remained an outline only. The first course only was given, this being delivered during the season of 1817-18. Before the second course could be delivered Mr. Hare became incapacitated for further mental work, and thus for the second time circumstances prevented the completion of plans brilliant in their conception, the execution of which was begun with zeal and intelligence, promising much for the development of legal education in the United States.

For some time no further attempts were made to revive the lectureship which had been twice so quickly cut short. Doubtless there was much unexpressed and unorganized desire for legal instruction, and indeed in 1832 there was a most vigorous petition for the appointment

of a professor of law which was presented to the trustees by a committee of the Law Academy of Philadelphia. This institution had doubtless in a degree taken the place of a regular law school by providing, through its moot courts and meetings, facilities for the contact of the Judges and the older members of the bar with the younger members and the students registered in the various offices. Fostering thus a desire to secure training in the law it is not strange that a petition from such a body should strongly set forth the fact that the city was sadly deficient in those advantages which were already given to the law student at Harvard, Yale and the University of Virginia. The resolution follows:

"Law Academy. Philadelphia, March 6, 1832.—The Petition of the Law Academy of Philadelphia to the Honorable, the Board of Trustees of the University of Pennsylvania: soliciting the appointment of a Professor to the Chair of Legal Science in that Institution, respectfully sets forth in advancement of its object the following considerations:

"1st. That the Professorship of Law which receives so much attention at Harvard, Yale and the University of Virginia, and whose connection with those seats of learning sheds so much lustre over their names, is at present neglected in the University of Pennsylvania; and that while her Medical School is annually sending forth accomplished and valuable physicians, while her Collegiate Department is disseminating the principles of sound learning in Science and in Literature, her Chair of Law, once illustrated by the genius and eloquence of a Wilson and a Hare, is unoccupied.

"2d. The important advantages will accrue to the Institution over which your Honorable Body presides, of a nature which it is humbly conceived cannot be overlooked. 1. In extending the reputation of the University, already so deservedly pre-eminent among her sister Institutions. 2. In drawing to Halls students in a new department of science, and 3. In retaining at home those who now seek elsewhere that peculiar mode of instruction to which our City does not afford access.

"3d. That the location of a professorship of the nature

petitioned for in a City like Philadelphia is peculiarly favorable to the promotion of its active and sensible usefulness;—for the numerous Courts of Justice—the extensive Libraries—the many learned and competent preceptors in Law which it affords, are all so many superior advantages which are unattainable elsewhere. And 4th, That the number of Law Students, residents of the City alone, is, in all probability, amply sufficient to offer an inducement to your honorable body to make the appointment prayed for.

"In submitting the considerations upon which they base their prayer, they beg leave to remain

"Your most obedient servants.

J. Pringle Jones,
C. Theodore Potts,
I. Wistar Wallace,
H. R. Kneass,
Wm. D. Baker. } Committee."

While the men who gathered in the court rooms of Philadelphia were the acknowledged leaders of the legal world of the day, they were inclined to undervalue the merits of a system of training which they had not undergone. They reasoned that the equipment which had been sufficient to win for them such brilliant victories should be all that was needed to guarantee success to their sons. It took another generation at least to convince the members of the legal profession of Philadelphia that this was a mistake.

Seventeen years passed after this fruitless petition, and the lectureship in law seemed destined never to be revived, but in 1849 the trustees, apparently awakened to the fact that not enough was being done for the undergraduate in the University, passed the following resolution:—"that the Committee on the government of the College be instructed to consider and report whether any change can be advantageously made in the course of studies for undergraduates, or any additional facilities provided for securing lectures which shall be open to the public on subjects not embraced in our present course of study, and also to consider and report what may be deemed useful in connection with these subjects."

It is evident that those who were desirous of establishing a Law School had been active and had made themselves heard, since, after hearing the report of the Committee, consisting of Mr. Joseph R. Ingersoll, Mr. Breck, Mr. Kuhn, Rev. Dr. Dorr and Bishop Potter, which was presented on March 5, 1850, it was resolved that a professor of law should be elected at the next stated meeting, and that nominations should then be received. George Sharswood, then a Judge of the District Court of Philadelphia, was nominated for the position, and on April 2d, he was duly elected. After a month of deliberation he accepted the nomination on May 7th. His first lecture was not delivered until September 30, 1850. This date must be held by all interested in the Law School as the most important in its history, even if we do not grant, as some maintain, that this is the true birth date of the Department. At last the recognition so long denied was awarded to the lectures on the law; men in active practice mingled with the undergraduate in the lecture room, and the interest and enthusiasm aroused are shown by the resolutions which the class addressed to the trustees.

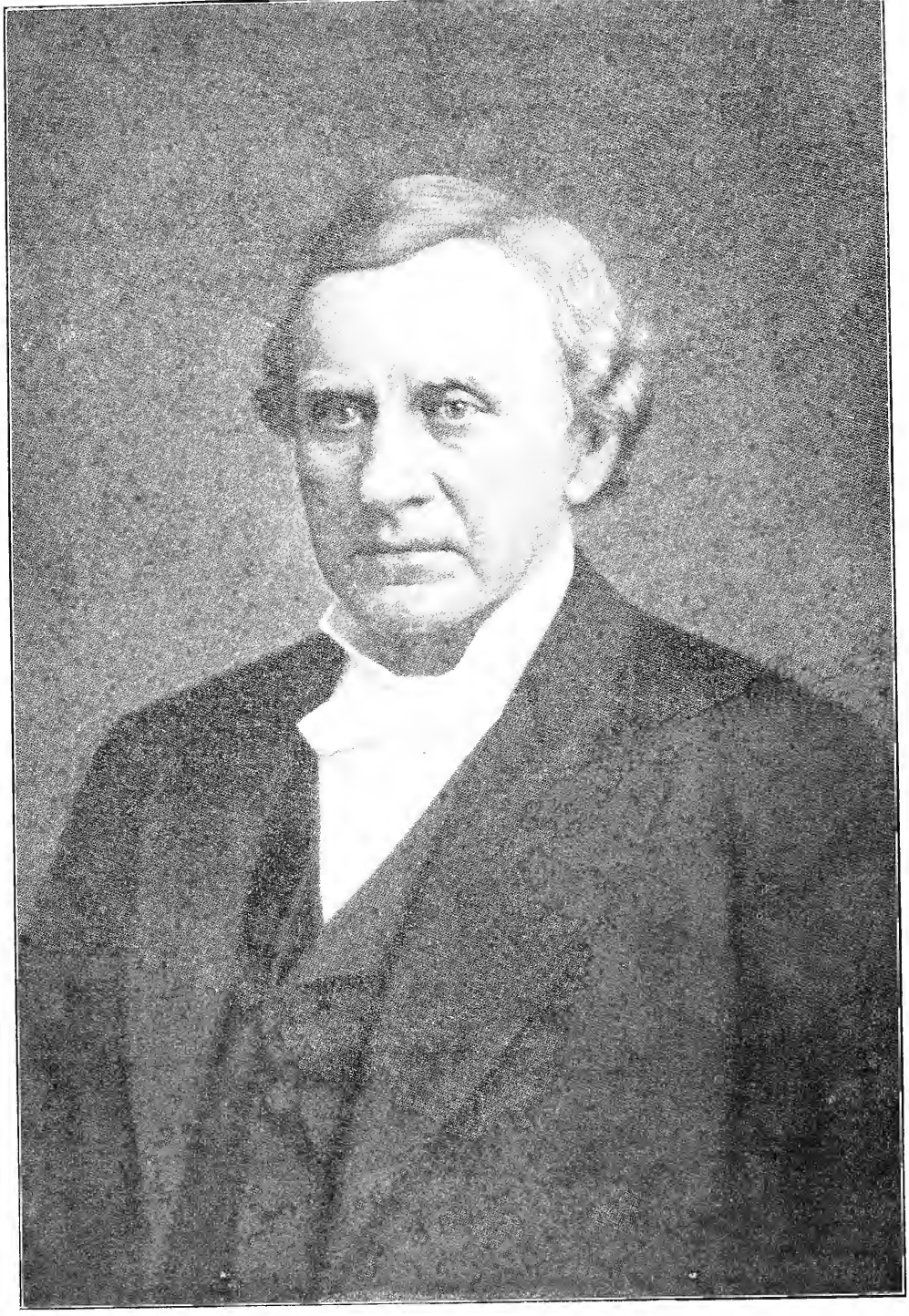
"*Resolved*, That in the re-establishment of the Law Professorship of this University the trustees have conferred a substantial benefit upon the Philadelphia Bar. *Resolved*, That the series of lectures delivered during the present term by Professor Sharswood have been listened to by the class with equal pleasure and profit, and have been marked by a sound, practical, useful and liberal character eminently designed to aid the practitioner in his daily professional duties. *Resolved*, That the thanks of the class are justly due to Professor Sharswood for the faithful, laborious and effective discharge of his duties."

The feeling which those who shared in the pleasure and instruction given by these lectures, still express when speaking of them to-day, proves that this was no mere perfunctory address—a form which it was proper to follow—

but that it was the earnest and spontaneous expression of a feeling both deep and sincere.

The Law School was now established upon a secure basis, and its growth was assured, but it had as yet but one professor. The growth was so rapid, however, as to make it necessary to increase the number of professorships. In December, 1851, the trustees passed a resolution asking that the Committee on Government of the College inquire and report as to the expediency of extending the Law School so as to embrace one or more additional professorships. The report which the Committee submitted was not at once accepted, but after some delays and much discussion it was adopted on May 4, 1852. By this plan, not one, but two, professors were added, making a faculty of law consisting of three professors. A Professor of the Institutes of Law ; a Professor of Practice and Pleading at Law and in Equity, and a Professor of the Law of Real Estate Conveyancing and Equity Jurisprudence.

On June 1, 1852, Judge Sharswood was elected to fill the chair of the Institutes; the chair of Practice was filled by Peter McCall, Esq., and the chair of Real Estate and Equity by E. Spencer Miller, Esq. Rules were established for the regulation of the School. A scholastic year of two terms of four months each was provided for, and any student attending at least four terms with each professor was entitled, upon recommendation of the Faculty, to the degree of Bachelor of Laws. A certificate of proficiency might be given to a student attending the lectures of one or two of the professors. As each professor regulated his own courses of instruction, held moot courts and conducted his own examinations, each course was given a certain independence which rendered this method possible. The student was required to matriculate, but no fee was required for this. The fee to each professor was fixed at ten dollars a term. The courses undertaken by the first two professors in 1790 and 1817, while both planned to lead to a degree, had neither of them lived long enough to



GEORGE SHARSWOOD.
1810-1883.
Re-organized Law Department in 1850.
From Original Painting in Law School Building.

confer one upon any student, so it was not until after the reorganization, more than half a century after the delivery of the first law lecture, that any degrees were conferred. July 2, 1852, the first public commencement of the Law School was held, and then were conferred the first degrees; those who had entered in 1850 thus receiving the first fruits of the revival of the School.

The Faculty afterwards were given permission to grant a degree after two consecutive terms had been attended, thus reducing the required time to eight months. This was seen to be an unwise provision, quite contrary to the direction in which the thought of the time was tending, and the permission was revoked.

The Court of Common Pleas for the county of Philadelphia and the District Court adopted rules which admitted the time passed in the Law Department as equivalent to the usual two years in an office under the direction of a practicing attorney. Persons admitted to practice in those courts were also admitted at once to the Supreme Court of the State. It was still requisite to register in an office, however, and the custom was very long in dying out. Up to the last years of the nineteenth century it was usual to hear the students speaking of "my preceptor."

Students were not examined before matriculation, and it was thought not to be "possible to require, peremptorily, a college degree, or any previous line of study." The lecture system, at that time the only method for inculcating the principles of the law practiced in any law school, was of course established, but moot courts and frequent examinations were held to supplement and buttress as it were the structure built up on the simple lines allowed by that system. Students were also admitted to membership in the Law Academy where they gained an insight into the practice of courts, especially of the trial by jury.

Those students who received degrees were entitled

to attend all future lectures free of charge. A room in the University Building was set apart for the use of the law students, but there was no law library and the general library of the University was only open for two hours each day, being in charge of the Professor of Belles Lettres.

For the next ten years the course of the school was smooth and unbroken; Judge Sharswood remained Dean, and the two professors retained their chairs, teaching with great faithfulness and success their respective branches. The first break in the ranks of the professors was made by the resignation of Professor McCall, June 5, 1860. While his resignation was accepted, it was with regret, and considerable delay occurred in securing a successor. Mr. McCall was asked to continue to fill the chair until his successor was chosen, but he was unable to agree to this. Hon. J. I. Clark Hare, Mr. Henry Wharton, and Mr. P. Pemberton Morris, were nominated for the place, but were not elected, and in October, 1862, Mr. P. Pemberton Morris was asked to act temporarily in Mr. McCall's place. In November, 1862, Mr. Morris was elected to fill the chair. The Civil War now began to make its effects felt in the decreased attendance upon colleges all over the land. The attendance at the Law School, which had risen in 1860-61 to seventy-one, fell, in 1861-62, to forty-seven In 1863-4 it increased to sixty-two, but remained under seventy until 1875-6, when a total of ninety-two was registered.

In 1868, after eighteen years of service, Judge Sharswood resigned his position as Dean and lecturer. He had just been elected an associate justice of the Supreme Court of Pennsylvania. His letter to the trustees expressed regret in laying down his duties and the pleasure he had always found in fulfilling them. The regret was more than shared by the trustees. His loss was severely felt in the Law School, the attendance dropping from sixty-three in 1868-69, to forty-nine in 1869-70.

Professor E. Spencer Miller was elected Dean in Judge Sharswood's place, and Hon. J. I. Clark Hare was elected to the chair of the Institutes of Law.

During these years the Law School had remained, in common with the other departments of the University, in the old building on Ninth street. The United States, however, purchased the building in 1872 for the purpose of placing upon it a new post office building. Much discussion ensued in regard to the policy which should be pursued in making a change of location. Mr. Miller, himself actively engaged in professional practice, opposed the plan for removing the Law School with all the other departments to West Philadelphia. At that time it was very strongly held that the law courts were the proper schools for the students of law; that to remove these students so far from the courts would be to deprive them of the benefits which Philadelphia was thought to be peculiarly fitted to present in her many courts, in her display of legal talents shown in legal argument and the skilled conduct of cases, which the student was expected to study as vivid and long to be remembered object lessons. The contrary opinion prevailed and it was decided to remove the school to West Philadelphia where a beautiful location had been secured near the river and where large buildings were being prepared. Mr. Miller's resignation followed (June 4, 1872,) closely upon this decision, and was accepted with expressions of appreciation of his ability and learning, and of the great service he had rendered the department while at its head. His term of service had been for a period of twenty years, thus being longer than that of Judge Sharswood by two years. He was called by his successor "the clearest and best law teacher which our Bar has produced."

The new building was ready for students September 16, 1872, and formally dedicated October 11, but the Law School remained in the building on Ninth street, the lectures being held in the trustees room of that building, for

the season of 1872–73. The season of 1873–74 the Paine Building, on Ninth street, south of Locust, was leased by the University, and used by both the Law and Medical Departments.

A number of nominations were made for the vacant position. E. Coppee Mitchell, W. M. Tilghman, G. Tucker Bispham, James Parsons, Richard L. Ashhurst and Henry Wharton, being the nominees. E. Coppee Mitchell was appointed temporary lecturer in October to fill the chair until the close of that term. Mr. Mitchell was appointed in June, 1873, for the second term, and in April, 1873, he was elected Professor of the Law of Real Estate and Conveyancing and Equity Jurisprudence.

It was now felt that in order to increase the efficiency of the institution the teaching force must again be enlarged. Many plans were proposed and much discussion took place. The standing committee on the Department of Law for the year 1873, of which Judge Sharswood was chairman and Alexander Henry, Eli K. Price, Peter McCall and N. B. Brown were members, submitted a plan and on January 6, 1874, the Board of Trustees reorganized the Department. The following is the plan as finally adopted :—

"There shall be instituted two new Professorships, one to be called of Personal Relations and Personal Property, and the other of Medical Jurisprudence. The Faculty shall then be composed as follows:

"1. A Professor of the Institutes of Law, to whom shall be assigned the subjects of International Law, Constitutional Law, Conflict of Laws, Criminal Law, Contracts, including Promissory Notes and Bills of Exchange, Suretyship and Guaranty.

"2. A Professor of Personal Relations and Personal Property, to whom shall be assigned the subjects of Personal Relations, Corporations, Agency, Partnership, Insurance, Title to Personal Property, Contracts of Sale, Bills of Lading, Bailment, Common Carriers, Pledges and Chattel Mortgages, Executors and Administrators.

"3. A Professor of Real Estate, Conveyancing, and Equity Jurisprudence, to whom these subjects shall be assigned.

"4. A Professor of Practice, Pleading, and Evidence at Law and in Equity, to whom these subjects shall be assigned.

"5. A Professor of Medical Jurisprudence, to whom that subject shall be assigned.

"There shall be two terms in each year, from October to January and from February to May inclusive. The full course shall be two years; each Professor shall arrange the subjects committed to him in such order as he may deem most expedient, and the same shall be published in the Catalogue.

"Attendance upon the full course (except the Lectures of the Professor of Medical Jurisprudence) shall be necessary to obtain the Degree of Bachelor of Laws. The fee for attendance upon the Lectures of the Professors (except the Professor of Medical Jurisprudence) shall be determined by them, shall be paid to the Dean of the Faculty, and divided by him among the said four Professors in the proportion of the number of Lectures delivered by each respectively.

"Any one of the Professors, including the Professor of Medical Jurisprudence, may issue tickets for his own course alone for such fee as he shall determine.

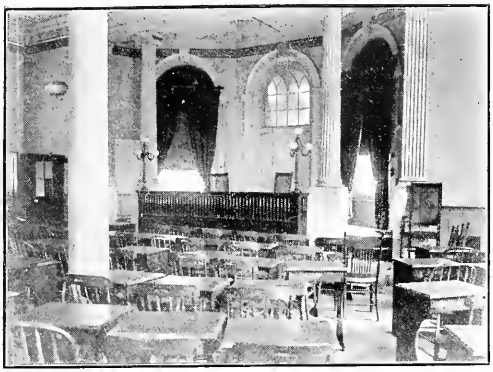
"Examinations, moot courts, and other exercises to be in the discretion of the Professors respectively.

"A hall shall be assigned for the exclusive use of the Law Department in the University Building by the Committee on Buildings in conjunction with the Committee on the Law Department, where the Lectures shall be delivered, which hall shall be open for the use of the students for the purpose of pursuing their studies in private, at such hours and under such regulations as the Law Faculty shall determine."

The stereotyped announcement of the Law Department which had scarcely changed in form for over twenty years, at last altered its phraseology and gave signs that new life had been infused into the old system. Mr. James Parsons was elected in February, 1874, to the chair of Personal Relations and Personal Property; that of Medical Jurisprudence being filled at the same time by the election of Mr. John J. Reese, M. D., who was Professor of Medical Jurisprudence and Toxology in the Auxiliary Department of Medicine. This latter course, not being made necessary to the attainment of a degree, suffered

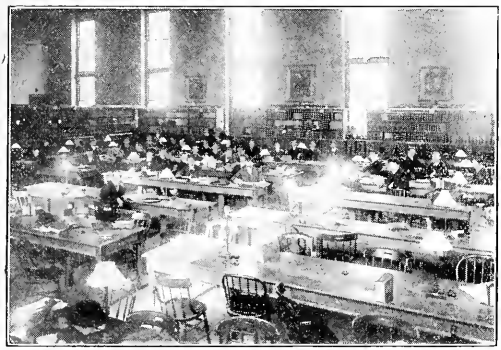
as all courses must which are regarded as simply desirable, not necessary, when they are contrasted with the courses which the student is obliged to take to attain his degree. Only four students attended although it was offered for the next twelve years to all students of the Law School. In 1887 it was dropped from the course. Changes were made in the time of holding the moot courts; they had previously been held directly after the lectures, but were now held upon special evenings which were assigned to them, and from this time they held a more important place in the life of the Law School. The Department was still without a law library, but the use of the library of the Law Association was secured to the students by their making an annual payment of three dollars, so that this great need was partially and temporarily filled. The public appreciation of all this effort toward a higher plane was shown by the fact that the attendance immediately increased greatly, the year 1874-5 showing a registration of fifty-eight, while that of 1875-6 gave a total of ninety-two.

Graduates of the Department were admitted to practice in the Courts of Common Pleas and Orphans' Court of Philadelphia in accordance with the following rule adopted in June 1875: "Any citizen of the United States of full age, who shall have been graduated Bachelor of Laws by the University of Pennsylvania, after the course study required in the University, may be admitted to practice as an Attorney of this Court if he shall have complied with the rule now in force as to the preliminary examination, and been registered for one year in the Prothonotary's office as a student of law in said University by the Dean of the Law Faculty thereof." This rule at that time aroused a feeling that too many privileges were conferred on the Law Department. This feeling was not unnatural in those who feared that a mere perfunctory attendance upon the courses given was all that would be required of the students. It remained for the Law School to place itself far above any such suspicion; an accom-

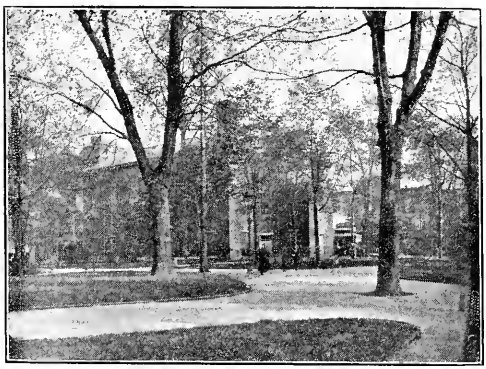


CHAMBER OF THE HOUSE OF REPRESENTATIVES IN "CONGRESS HALL."—Used as a lecture room.

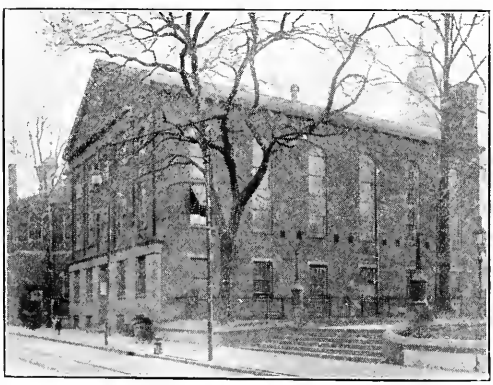
OLD DISTRICT COURT ROOM IN "CONGRESS HALL."—Occupied as a lecture room.



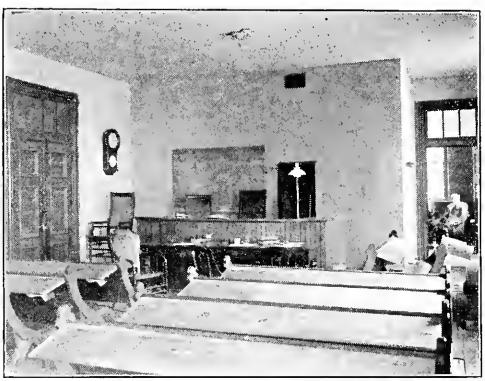
OLD CRIMINAL COURT ROOM IN "NEW COURT HOUSE."—Occupied by the "Biddle Law Library."



VIEW OF QUARTERS FROM "INDEPENDENCE SQUARE."



"NEW COURT HOUSE."—In which the Biddle Law Library and administrative offices of the Law School were located 1895-1900.



"MOOT COURT ROOM" IN "NEW COURT HOUSE"

SOME VIEWS OF QUARTERS IN "CONGRESS HALL" AND "NEW COURT HOUSE"—1895-1900.

plishment which it has taken years to completely perform, but which it may now claim to have absolutely fulfilled. No man can graduate at the Law School to-day who has not had a thorough, exhaustive and searching examination each year into his proficiency in any course which he has studied, and he is expected and required to obtain a knowledge of the law, such as was rarely to be secured in any law school a few years ago.

In 1875, it was provided that every candidate for a degree should prepare a thesis on some legal topic, and should pass an examination at the end of the session on the subjects studied during that session. The latter regulation ran as follows: "He shall have passed an examination at the end of each session upon the subjects of study during that session. The examination shall be conducted by the Faculty, either orally or in writing, as they may determine, in the presence of such of the members of the committee on the said Law Department belonging to this board as may choose to attend, and the members of the board of examiners appointed by the courts of Philadelphia may be present at the examination if they desire to do so."

The "Sharswood Prize" of fifty dollars for the best essay written by a member of the graduating class in each year was established in 1875 by an Alumnus of the Law Department. It has been found an incentive to good work, even after 1894, when the essay ceased to be required as a prerequisite for a degree. The first of these prizes was awarded in 1876 to Dwight M. Lowrey, Esq., a graduate of that year, for his essay upon Contingent Estates. In 1878, a prize of fifty dollars was established by the Faculty to be given to the student who passes the best written examination with all the professors. The prize is now given in each of the three classes. They are known as the Faculty Prizes and are awarded annually. The Meredith Prize of twenty-five dollars for the second best graduating essay was established in 1879, and it also is

awarded annually to a member of the graduating class, whenever two essays of sufficient merit are presented. In 1888, the Sharswood Prize was increased to seventy-five dollars, and the Meredith Prize to fifty dollars.

The classes steadily increased in numbers and the Law School in prosperity under its five well qualified professors. The next change in the Faculty took place in 1884; Professor Morris presenting his resignation after having successfully conducted the course in practice and pleading at law and in equity for twenty-two years. He was succeeded by George Tucker Bispham, Esq., whose work on the Principles of Equity has an international reputation, and who is to-day the senior member of the faculty.

In 1883 a post-graduate course in law was established, its aim being "to broaden and deepen the foundations of legal education." The catalogues announce that the method adopted was "a comparison of the systems of law which obtain in different countries." The course covered two years; one year devoted to the study of the Roman Law and the principles which have grown out of it; the second to the study of the Common Law. Graduates of any Law School of recognized standing and members of the Bar were eligible as students. The tuition fee was twenty-five dollars. The graduates received the degree of Master of Laws and a thesis was required during the second year. This course was continued until the fall of 1897.

In 1871 Miss Carrie S. Burnham, now Mrs. Carrie B. Kilgore, then regularly registered as a student in a law office, applied for admission to the Department. Her application was, however, laid upon the table by the Board. In 1881 a second application was more successful, and in 1883 Mrs. Kilgore was graduated. She is, therefore, the first woman graduate of the Law Department. Between 1883 and 1895 no woman was matricu-

lated. Since the last date, however, several women have been in attendance on the lectures, and three graduated.

The Law Clubs have for many years held an important position in the Department. Through these clubs the moot court work is done, and nearly all the men in the school find it to their advantage to join some one of the organizations. The first club to be organized was the Sharswood Club, which was named for the reorganizer of the Law School and first Dean, Hon. George Sharswood. The Hare Club was organized in 1890, and was named for the Hon. J. I. Clark Hare, also eminent for his services to the Law School. Both clubs have maintained a continuous and prosperous existence and many men of prominence at the bar and on the bench have been counted among their members.

The Miller Club was organized in 1891. In 1893 this club established a "dispensary." Persons too poor to retain counsel in the ordinary manner were given advice, and after consideration by a council the case, if meritorious, was taken into court. This club is still strong and active and has a large membership.

The Kent Club was organized in 1896. It soon had a strong membership, and grew rapidly, and now, although still a young club, is in a very flourishing condition.

The Gibson Chapter of the Greek Letter Fraternity, Phi Delta Phi, organized in 1897, was the last club to be organized before the department moved to its present building.*

The first officer of the Law School to die while still in office was Edward Coppée Mitchell, Dean of the

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* All of the clubs have separate rooms in the Building of the Law Department. The Wilson, McKean and Marshall Clubs have all been organized since the removal to the new building; the Marshall Club having a membership exclusively composed of the women law students. The policy of the Department is to aid and encourage these clubs in their work. Each professor sits as Judge for each club at least once each year; thus from November to March each evening one or more moot courts are in session.

Department from 1872 until 1887. He had overtaxed his strength in his earnest efforts to perform all his duties and increase the success of the school whose welfare he had always at heart. He was succeeded in his office of Dean by Professor George Tucker Bispham, while the chair of Real Estate and Conveyancing was filled by C. Stuart Patterson, Esq.

The year of 1887 marked another advance in the history of the School. The number of professorships, which had for a long time remained stationary, was increased by adding a Professorship of Pleading and Evidence at Law, and Criminal Law. This chair was filled by the election of A. Sydney Biddle, Esq. The change was but the herald of those to come. In 1888, Professor Bispham resigned as Dean, and November 6, 1888, Professor C. Stuart Patterson succeeded him in that office. In December of the same year, Judge Hare, whose judicial duties were onerous, resigned as Professor of the Institutes, and the title of the chair, a survival of the early days of Wilson and the first Professor Hare, was never revived. Professor Hare was made Emeritus Professor of Constitutional Law. His well-known treatise upon that subject and his work upon the Law of Contracts are enduring memorials of the labor and learning which he bestowed upon the courses which he conducted. Samuel S. Hollingsworth, Esq., was elected Professor of the Law of Contracts and Corporations, and Pleading at Law. A Professorship of Criminal Law was also established at this time and George S. Graham, Esq., at that time District Attorney of Philadelphia, was elected to the position.

In 1887 the feeling that the Law School should be near the courts and law offices dominated the policy of the administration, and the School returned to the city where it was accommodated in the Girard Building, one of the recently built office buildings at the corner of Broad and Chestnut streets. The sixth floor of this building was secured for the use of the Department, and here was

BIDDLE LAW LIBRARY.—(STACK ROOM.)

also installed the recently founded Law Library of the Department. This Library was founded in 1886 by the family of George Biddle as a memorial to that distinguished lawyer. The gift consisted of over five thousand volumes, including nearly every regular American and English report, the books being purchased by the donors from the estate of Benjamin H. Brewster, formerly Attorney General of the United States. Mr. Effingham B. Morris also deposited with the School 965 volumes bequeathed by the late Professor Morris to the School, subject to the life interest of Mr. Morris. Mr. S. Stanger Iszard was elected Librarian.

In the fall of 1888 the course of instruction was increased from two to three years. This increase of the term of instruction was a necessity if the School was to stand among the great Law Schools of the country; two years having been found by experience to be too short a time to properly prepare students for the legal profession.

When Mr. C. Stuart Patterson succeeded to the office of Dean, the staff was increased by the new system of electing the member of the graduating class who attained the highest grade in the examinations to be a Fellow of the Department, and the control of the financial affairs of the School was placed in the hands of the executive body of the University. At this time also the custom of granting degrees *cum honore*, to such students as should pass their examinations with distinction was instituted. The P. Pemberton Morris Prize was established. This is awarded annually for the best examination in Evidence, Pleading and Practice at Law and Equity. Increased attendance rewarded all these changes toward a more perfect fulfillment of the ideal which the trustees had set before them.

In June, 1890, it was determined to thereafter elect from among the members of the graduating class, a student to fill the position of Fellow in the Faculty, the Fellowship to last for a term of three years. A number of

the present members of the Faculty, as will be seen presently, before they became instructors or lecturers, held Fellowships. Those not otherwise mentioned who have held Fellowships, are Mr. Charles Henry Burr, Jr., 1893-1896; William Nelson Loflin West, 1895-1898; Joseph Gilfillan, 1896-1899; Arthur Dickson, 1897-1899; Arthur Edward Weil, 1899-1900; Thomas R. White, 1899-1900.

April 8, 1891, the Department lost, through the death of A. Sydney Biddle, one of the most earnest and devoted of the men who formed its Faculty, and in June, 1894, a further loss fell upon it through the death of Samuel S. Hollingsworth who had been a favorite professor and an earnest worker. The family of Mr. Biddle, soon after his death, donated a fund of twenty thousand dollars to the Law Department for the purpose of founding a chair whose occupant should be known as the A. Sydney Biddle Professor of Law. This valuable and enduring memorial forms a most fit monument to a life devoted to the law. The name of the George Biddle Memorial Library was, at the same time, changed to the "George and A. Sydney Biddle Memorial Library."

The increase in the length of the course and later in the number of students necessitated an increase in the number of professors. In 1890 Hon. George M. Dallas, Judge of the Circuit Court of Appeals, was appointed Professor of the Law of Torts and of Evidence. In 1893, Mr. George Wharton Pepper, who had been a Fellow since his graduation from the Law School, was appointed A. Sydney Biddle Professor of Law. In 1894, Mr. George Stuart Patterson, and Mr. Charles C. Townsend, who had been appointed Fellows, in 1891, were elected to professorships. Later in the same year Mr. Hampton L. Carson was elected Professor of Law, the teaching force thus being increased to nine active professors and three Fellows.

In 1894 Mr. C. Stuart Patterson presented his resignation as Dean, to take effect at the end of the season of

1894-95. During his incumbency as noticed there was a marked increase in the numbers matriculating in the Law School. The total number for the year that Mr. Patterson became Dean was 149 ; the year of his resignation the total registration had increased to 228. The position was not at once filled, and in the interregnum Mr. George S. Patterson, son of the former Dean, was designated Acting Dean of the Department.

The number of students in the Department had now grown to be so large that they could no longer be comfortably accommodated in the rather narrow quarters occupied by the Department and in the spring of 1895 that portion of the buildings in Independence Square, recently vacated by the local courts, were, by the courtesy of the city, secured as a temporary home until the Law School could find means to provide a permanent dwelling place. The large upper room in the building 115 South Sixth Street, formerly used as the Criminal Court, was dedicated to the uses of the library. Bookshelves were placed about the walls, a couple of alcoves formed, and great oak tables set about the central space. Here for the next five years the scene was to be a busy one, although as yet the library was not the great workshop it was destined later to become. A number of smaller rooms on the ground floor were set apart as class rooms and club rooms. The executive offices were at first on the ground floor. Later they were removed to the smaller rooms off the library. Lecture rooms were at first provided in the small buildings connecting Congress Hall with Independence Hall, but as the restoration of Independence Hall was then going on, these small buildings were marked for destruction, and in the fall of 1897 all the lecture rooms were removed to Congress Hall. The large lecture room on the first floor was the room once used as the meeting place of the first House of Representatives of the United States. It was the scene of the inauguration of President Washington, in 1793, and also that of the elder Adams, in 1797, and

of Jefferson as Vice-President. The room on the second floor, used as a lecture room for the Third Year Class, formerly formed the anteroom of the Senate Chamber occupied by the first Congress. It afterward was used by the Supreme Court of Pennsylvania. The members of the classes of 1897 and 1898, the only two classes whose entire period of legal study was passed in these interesting surroundings, felt themselves fortunate in their mental atmosphere, though deprived of the physical comforts and conveniences which were to be so amply provided for the classes who were to come after them. These quarters for a time served fairly well the needs of the Department, although inconvenient, much separated and not well adapted to a use for which they had not originally been intended.

Mr. William Draper Lewis was elected Professor of Law and Dean of the Department of Law in August, 1896. He is the first person holding the office to give his time exclusively to the work of the Law School. The next three years showed many changes. The requirements for admission to the Department were raised, although the standard of education before required of an applicant was equal to that required in most law schools, and higher than that required by many. All applicants are required to show that their previous training has been such as to admit them to the college department. This change caused at first a decrease in the registration; or, more accurately, prevented the normal increase which would have taken place; the registration for two years remaining nearly stationary. By the third year, however, this was overcome. The increase in the fitness of the candidates for the work of the school was most marked and gratifying.

Students were also required to attend at least eighty per centum of the lectures in each year. The number of lecture hours given to the students was more than doubled, and the number of subjects increased; those in the Third

Year gradually being made elective, so that a much wider range of instruction was offered to the student, than had formerly been the case. For some time the students had found it necessary to supplement the teaching in class by "quizzes" given by persons not connected with the Law School, thus entailing considerable additional expense upon the student. In 1896 a system of quizzes, conducted by the teaching force of the Law School, was established. This quizzing is continued at the present time, though necessarily modified as a result of the change in the methods of instruction in class. This change will be spoken of later.

The American Law Register, established in 1852, after many years of editorship by men prominent in the literature of the law and at the bar, during the eighties lost much in circulation and influence. In the latter part of 1891 it was bought by a syndicate composed of members of the Philadelphia Bar and by the new owners placed in charge of Mr. George Wharton Pepper and Mr. William Draper Lewis. Mr. Pepper and Mr. Lewis continued in sole charge until January, 1894, when Mr. Wm. S. Ellis was associated with them. During 1896–7 the real editors were a committee of students of the Law School. On January 1, 1897, the Register was adopted by the Faculty as the official publication of the Law School, and is now conducted by a student Editorial Board, acting under the general supervision of the Faculty.

Since its foundation the library had grown by a natural accretion of continuations of sets already begun and occasional gifts or purchases. The library, in 1896, contained 10,276 volumes. In this year steps were taken to place it upon a plane with the law libraries of the leading universities of the country. In the three and one-half years immediately preceding the opening of the new building the library increased to twenty-two thousand volumes. By purchase were added complete sets of Colonial reports, Scotch and Canadian reports, the Hawaiian

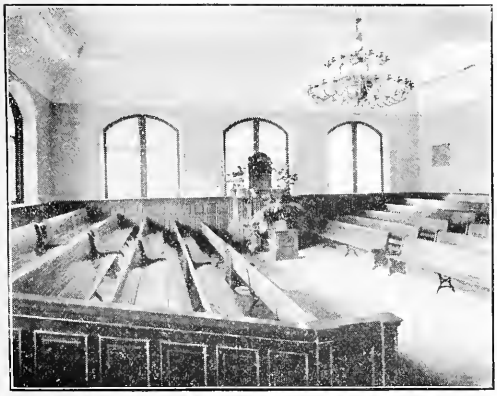
reports, Australian reports many sets of periodicals, both English and American, treaties to the number of about three thousand, Treasury decisions, Patent reports, Bar Associations reports, ordinances, digests and statutes, and a collection of Roman and Civil Law. It now shows a well rounded development on every side. It is a complete library for the undergraduate, and it is hoped that it will soon become a complete library for the graduate student. Since its foundation the fund set apart for its support has varied as the receipts from the school have grown or decreased. It may be stated, however, that a sum of at least $2,000 annually for the first ten years, when all the expenses of the library were taken from the fund, was spent upon the purchase of books. Since 1896 the entire twelve per cent. has been devoted to the purchase of books. This has amounted to between five and six thousand dollars annually, for the years between 1896 and 1899, and is now increased, through the growth of the School, to $6,000. To these annual sums should be added an additional $6,000 spent in 1896–7, when the immediate necessities of the library were very great. Thus the aggregate sum spent may be stated as approximately $50,000, though owing to the steady increase in the value of the books already purchased it would now require a much greater sum to duplicate the purchases made. As a result therefore of the wise provision relating to setting aside a considerable portion of the receipts of the School, this library, founded by the private benevolence of a single family, has been so largely increased that it has become one of the great Law Libraries of the country.

In 1896, Mr. Edmund Jones was made librarian. He resigned in 1897, and the writer of this sketch became librarian.

In 1897, Mrs. Arthur Biddle, widow of the third son of Mr. George W. Biddle, presented the library of her deceased husband to be added to the former gift of the Biddle family, and as a memorial of Mr. Arthur Biddle.

WHARTON HALL,—A Class Room.

A VIEW OF THE STAIR CASE.



PRICE HALL,—General Assembly Room and Debating Hall.

STUDENTS' CONVERSATION ROOM.

A CORNER OF THE MAIN HALLWAY.

THE MOOT COURT ROOM.

SOME INTERIOR VIEWS OF THE NEW BUILDING.

This library numbered nearly four thousand volumes. In recognition of the fact that the library had now become a memorial of all the sons of Mr. Biddle, the name, shortly before the removal of the library to the new building, was changed by the Trustees, with the approval of the family, to "The Biddle Law Library."

In 1898, Professor James Parsons resigned. He had on September 10 of that year been connected with the Law School as Professor of Commercial Law, Contracts and Decedent's Estates for twenty-four years. During his last years in the School he had confined his teaching to the course on Partnership. His treatise on the Law of Partnership, now translated into Latin, and one of the few American law books used by continental scholars, was written for and used in connection with his course on that subject. Soon after his resignation as professor he was made Emeritus Professor of Law, in recognition of his extensive learning in both the Common and the Roman Law, and of his long service to the University.* Professor Graham was absent on leave in 1898, and he never resumed his work in the Law Department. In October of this year Reynolds Driver Brown, Esq., and John W. Patton, Esq., were elected professors. Professor Patton agreed to devote all his time to the Law School. Professor Brown took most of the work in property; Professor Patton the new courses in Pennsylvania Practice. Mr. William E. Mikell was also elected instructor. On June 4, 1898, Professor C. Stuart Patterson presented his resignation, which was received by the Faculty with resolutions of regret.

Professor Charles Cooper Townsend, who had so acceptably filled the chair of Property since 1894, resigned and ceased to teach in December. His resignation did not take effect until June 18, 1899. The student body

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* Professor Parsons' death occurred on March 23, 1900, one month after the removal of the Department to the new building.

testified to their appreciation of his work in the School by presenting him with a silver loving cup.

Mr. Townsend did not lecture after Christmas, 1898. Mr. John A. McCarthy, a graduate of the Class of 1892, was elected lecturer, and acceptably conducted part of Mr. Townsend's courses for the remainder of the year and during the next scholastic year.

In the summer of 1899, Hon. John B. McPherson, U. S. District Judge for the Eastern District of Pennsylvania was elected Professor of Law, being assigned the course on Insurance.

Mr. William H. Carson, who had been appointed lecturer on Carriers in 1898, died in August, 1899. Mr. Carson was Assistant District Attorney of Camden, N. J., at the time of his death, and though still a young man, had shown an earnestness and devotion to his chosen career which had already brought him merited success.

Mr. Francis H. Bohlen was appointed lecturer on Negligence in 1898, and in 1899 Mr. Roy Wilson White, who was then a Fellow, was requested to take up the subject of Civil Law, with the intention that he should devote himself to the preparation of courses upon that subject and upon Roman Law. For the purpose of fully preparing himself for his work, Mr. White was sent abroad in 1899, and studied for some months in the University of Paris, returning to take up his work just before the removal to the new building.*

The overcrowding and inconvenience of the temporary quarters on Independence Square was felt, not alone in the library, but throughout the Department, and in the winter of 1897 the announcement was made that after June, 1898, the Department would be located in West Philadelphia "the trustees having resolved to erect suitable buildings on the grounds of the University or lands

*The hopes and intentions of the Department were frustrated by the death of Mr. White, May 19, 1900, before he had entered upon the duties of his lectureship.

adjacent thereto." The latter alternative was decided upon; land at the corner of Thirty-fourth and Chestnut streets, a few hundred feet from the campus of the University, was purchased and plans were drawn; the building, however, was not destined to be so quickly completed and until February 22, 1900, the buildings on Independence Square continued to shelter the Department.

February 21, 1900, the new building of the Law Department was ready for occupancy and on that date and the two succeeding days elaborate ceremonies signalized the opening of the building.

This formal history would perhaps be incomplete if some account was not given of the changes which have taken place in the subjects taught, and in the objects and methods of instruction. The lectures outlined and in part given by the first Professors Wilson and Hare, were intended to give to the law student that which would fit him to act as a legislator and political leader in the then new country. In the outlines, therefore, especially of Judge Wilson's lectures, we find the greatest stress laid upon Constitutional and International Law. Private Law is treated, but minute and technical instruction is not attempted. There is a general comparison of the systems of the English and Roman Law, probably with a view of legislative reform, rather than of application to the affairs of clients. The difference between the outline prepared by Hare and that prepared by Wilson, shows a drift away from Public Law and towards Private Law. In the latter part of the eighteenth and early part of the nineteenth century, the law, that is the Private Law, was bound up very largely in the systems of Pleading and Conveyancing. These the student acquired in the lawyer's office under the eye of his preceptor, and though we cannot but believe that lectures along the lines of Blackstone's Commentaries would have had a better chance of success than those attempted, in justice to Wilson and Hare it must be remembered, that the pri-

mary need of law students at the time was probably instruction in Public Law and general questions of Jurisprudence rather than any special training for their work as lawyers.

Between the time of Hare and that of Sharswood there was evidently a considerable development in the attitude of the law student towards the scope of the instruction desired. From the first Judge Sharswood and his two fellow Professors were expected to give information on those subjects which the students would have to deal with as practicing lawyers. The students, all of whom were in lawyers' offices, were expected to obtain in these offices a knowledge of the technicalities of practice, but it had become recognized that they did not obtain from their preceptors systematic information on the law, and this systematic information the school was brought into existence to give. There were, during Judge Sharswood's time, no entrance examinations and no examinations in course. The Law School was not a school in the modern sense, but a place where legal information was imparted and explanation of the more difficult parts of the law given. The real work of the student was still in the office. Those yet living, who attended Judge Sharswood's lectures, bear enthusiastic testimony to the way in which he accomplished the task he set himself to do. His discussions of the law were clear and luminous, and if his lectures left anything obscure, there was the quiz or discussion to clear up the obscurity.

After Judge Sharswood's resignation, the school fell off in numbers because no one could quite fill his place as a fountain of legal information. With the election of E. Coppée Mitchell as Dean the school may be said to have entered on a new phase of its existence. In the twenty-five years which had passed since Judge Sharswood first began to lecture, there seems to have been a still further development in the ideas of the members of the bar and the students of law in regard to the things which they

expected the Law School to do. Dean Mitchell and the practically new Faculty which he had about him, recognized that the school must now be more than a place where information on the law could be obtained; that hereafter it must train the student for the work of the legal profession. While practice was still left to the office, the student was expected himself to work in connection with the lectures, and at the end of each course he was regularly examined on the subject taught. The school became the place to train the students for the local bar; and it is no depreciation of others to say that to Dean Mitchell, more than to any other person, is due the success which attended, during his administration, the efforts of the Faculty.

The moment the point of view of the Faculty towards their own work became the point of view of the trainer rather than the lecturer, it was necessarily only a question of time when the didactic lecture as an efficient means towards this end was to be called in question. The lecture method of instruction is the only method possible where the duty of the teacher ends when he has imparted information; but where the primary object is, not only to see that the student obtains information, but to train the student so that he may apply his knowledge, then the didactic lecture, while a possible means of accomplishing this result, is one which the majority of modern teachers of law, as well as of other branches of knowledge, believe they have found to be radically defective. The first person connected with the Law School to discard the lecture system of instruction was Mr. A. Sydney Biddle. His method, which he used in the subject of Torts, was to direct the students to the principal cases dealing with the legal question which he desired to discuss in class. The class hour was then devoted to a discussion between the Professor and students of the principles involved in the cases, with which all, at the time of the hour, were familiar. Unfortunately Mr. Biddle's death prevented him from

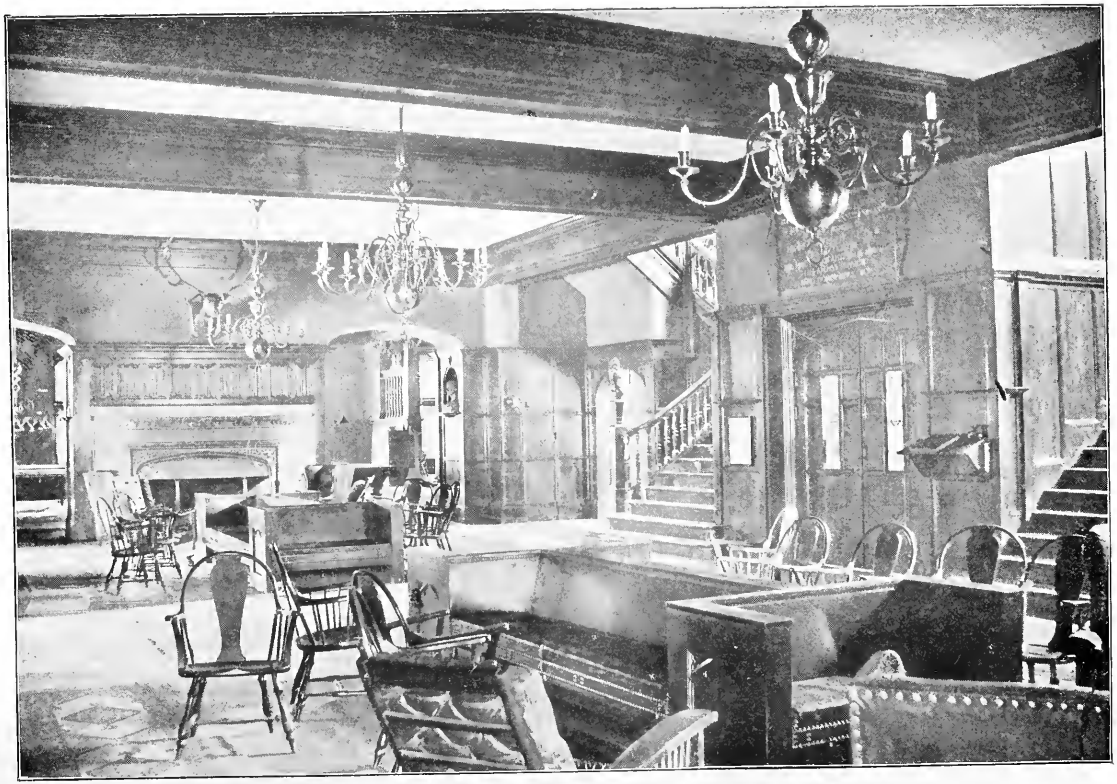
THE DORMITORIES—THE "LITTLE QUAD"

1890 with about eighteen hours of instruction per week; while at the time of entering the new building there were seventeen professors and instructors offering fifty-two hours of instruction per week; thirty-eight hours being required for a degree.

From the necessity of training the student as well as of informing him on the law, came ultimately another change, which has only taken place in the last few years, but is perhaps destined to do more than any single thing to revolutionize the school. As long as all that was required of a professor was general information on legal subjects, any able and well-informed lawyer who was fond of the work could give satisfaction. But the moment training by the teacher, as well as information, became necessary, that moment the law professor must not only know the law, but be an experienced teacher. To become an efficient teacher is in itself a distinct art which requires, not only natural aptitude, but thought and work. The busy lawyer cannot, except in rare instances, give the time necessary to solve teaching problems. The successful modern teacher of law, therefore, is in the great majority of cases either a man who is devoting practically his entire time to the work of teaching, or one who, having done this during his younger days, has acquired a train ing as a teacher which he preserves, though his whole time may not be given to the work of the law school. Again the tendency towards specialization of courses leads the profession as well as the students of the school to demand minute and exact information on the subject taught. Unless he is confined to one subject, a man in active practice cannot master and keep abreast with the law which he is expected to teach in a way which is satisfactory to the modern law student. From both of these considerations it results that, where a teacher is asked to teach more than one subject, he must be asked to devote practically his entire time to the work of the school. These facts were recognized by the Trustees of the Uni-

versity in the year 1895, and they at once began to build up a teaching force which should contain a nucleus of men who had no other interests but the work of the Department. At the time of entering the new building, the Department contained four teachers who were devoting their whole time to the University. While it is unlikely, and from the writer's point of view, undesirable that the school will ever contain a Faculty none of the members of which are in active practice, the proportion of men who devote their whole time to the work of the Department will in the immediate future tend to increase. Out, therefore, of this change in the attitude of the Faculty towards their own work, from that of persons giving information to that of persons training their scholars, has come, in the last twenty-five years, objective changes which have completely revolutionized the entire Department.

During the last decade a great change has taken place in the geographical distribution of the student body. In 1890, not nine per cent. of the graduates of the school expected to practice outside of Philadelphia. In 1900, at the opening of the new building, nearly fifty per cent. of the students of the school came from a distance, all parts of the United States being represented. The school, from being a local school, has become a national one. The change forced the Faculty to recognize the fact that their duty towards the student did not end when a class hour was over. As students who came from a distance could not be expected to enter local offices, it became necessary that the University provide a place of study, as well as a place of instruction, for the student body. The new building, the opening of which is recounted in this volume, is the result. But the duty of a University towards a student coming from a distance does not end even with providing him with instruction and a place to study. It should provide him for the time being with a home. For this reason it became necessary



HOUSTON HALL.—INTERIOR OF MAIN HALL

that the Law Department's building should be near the other University buildings, where the student could be insensibly drawn into the life of the University and have healthy occupation for his hours of leisure.

Again, the student from a distance, being unable to secure in the local offices instruction in practice, turned to the school to train him in the practice as well as in the knowledge of law. Indeed, it may be here pointed out, that, even had there not been a large increase in students coming from a distance, the change in local conditions would have forced the University authorities, not only to provide a place of study for local students, but instruction in practice. In the old days, before the typewriter and the trained clerk, the student was useful to his preceptor, being after a short time able to assist him in writing his letters and drawing the more simple legal papers. These conditions in a large city such as Philadelphia, have been for the last twenty years practically the conditions of the past, rather than existing conditions. The law student therefore has become more or less of a nuisance in the lawyer's office, taking up space for which the lawyer has to pay at a much higher rate than his predecessor. As a consequence, many of the local students cannot gain access to a lawyer's office, and even where this is possible, the hurry and routine of modern business in the large majority of cases prevents the lawyer from giving any attention to his pupils. The Faculty recognizing these conditions, since 1897 no student entering the school has been permitted to graduate unless he has taken and passed an examination in the practice of the jurisdiction in which he intends to locate. Special instruction is given in Pennsylvania, New Jersey and Delaware Practice, while the work of those intending to practice in other states is regularly supervised.

Another change which has taken place in the teaching of the school in the last ten years, which is an outgrowth of the wider geographical distribution of the

students, is the character of the emphasis which is placed in the instruction on the decisions of the State Courts of Pennsylvania. It was always recognized by the Faculty that the principles of the Common Law and the problems of the lawyer were essentially the same in all jurisdictions following the system of jurisprudence developed by the English speaking peoples, and therefore the student of law should by no means confine himself to the cases in any one jurisdiction. At the same time, where all the students expected to practice in a particular jurisdiction, it was but natural that the majority of cases to which the student was referred were cases decided by the courts of that jurisdiction. When, however, members of the student body expected to practice in all parts of the United States, the Faculty recognized the necessity of studying the fundamental questions of our law from material gathered from any court administering that law, without undue emphasis upon the decisions of any particular jurisdiction. Had the development ended there, there would unquestionably have been a distinct loss to those students, still forming the majority of the school, who expected to practice in the State of Pennsylvania. For while the Private Law is essentially the same in all parts of the United States except Louisiana, the courts of each state naturally rely very largely on their own decisions, as these decisions are more familiar to them. In conjunction, therefore, with the change necessary in the emphasis to be laid on Pennsylvania cases in the general and fundamental courses, it became necessary to add as elective courses in the third or graduating year, courses confined entirely to the statutory and other peculiarities of Pennsylvania Law. At the same time the professor in the more general courses is expected to direct a student to any peculiarities of the law of the state in which he expects to practice.

It was said recently by a leading educator in speaking of the work done by a great University, that the highest praise which he could give was the fact that

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though the University had existed for many years, and the educational needs of the country in that time had constantly changed, the University had been able on the whole to meet new conditions as they arose. This may also be said of the Law School of the University of Pennsylvania. During the fifty years of its continuous existence the character of its instruction, and the methods and ideals of the Faculty have, as we have seen, changed more than once. But at any one period, with possibly one or two exceptions, the School has tended to adapt its work to the needs of the great body of those who came to it for instruction.

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